

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, April 18, 2022 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council:

- Mayor Brooks Bass
- Councilman Jeff Pena
- Councilman Jerry Cain
- Councilman Mario Muraira
- Councilman Troy Brimage

Staff:

- Tim Kelty, City Manager
- Betty Wells, City Secretary
- Cathy Ezell, Finance Director
- Chris Duncan, City Attorney
- Kacey Roman, Building Official
- Ray Garivey, Freeport Police Chief
- Clarisa Molina, Administrative Assistant
- Danny Gillchriest, Freeport Police Department
- Toby Cohen, Information Technology
- Chris Motley, Freeport Fire Chief

Visitors:

Raven Wuebker	David McGinty
George Matamoros	Kenny Hayes
Bob Casale	Marinell Music
Shonda Marshall	Lucy Ware
Aaron Ware	Melanie Oldham
Sam Reyna	Breanna Brimage
Con McCleaster	Diane McCleaster
Manning Rollerson	Desiree Pearson
Sabrina Brimage	Tommy Pearson
Nicole Mireles	Laura Lynch
Janell Marin	Jamie Ford
Pam Dancy	Jaclyn Hildreth
Ben Kelty	Diego Kelty
Alma Kelty	Ed Garcia
Roy Yates	Peggy Yates
Keith Stumbaugh	Ruben Renobato
Brenan Brimage	David Estrello

Rev. Jesse Rivet
Brian Thomas
Robert Bacon
Julian (711 West 10)

Raul Ramirez
Shana Garza
Shana Tidwell

Call to order.

Mayor Bass, called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation was led by City Manager Tim Kelty, the Pledge was led by Mayor Bass.

CITIZENS' COMMENTS:

Marinell Music spoke on the investigation that is being conducted of Councilman Pena, and the separation agreement between the EDC and Courtland Holman. She said with this agreement, the City nor anyone else can get information from Mr. Holman on this, and we need his input. She asked Council to amend this agreement.

Pam Dancy said she wants to make sure that council knows she is not implying anything to anyone. She said that BrazTex was supposed to build 16 homes, and there were only 14 built. She asked where is 201 S. Front Street? She asked about the subdivision Bridge Point, that was supposed to be built. She said it was not built. She asked about the Veolia payment. She asked if there was an error in the agreement?

David Estrello said he owns Estrello Automotive. He said administration is treating the City as a Private Domain. Enacting rules and laws to fit their personal wants. He said the City drove out Intermedics, and now they are trying to drive out automotive repair shops.

Kenny Hayes spoke to council about the trash pictures that have been put on Facebook by councilmembers. He said he wishes that council would start going out and talking to the residents instead of putting pictures on Facebook. Mr. Hayes said he and Mr. Pearson will be starting a little group for Ward C. He said he has had no problems with the new trash service.

Tom Pearson said he wanted to bring up some things about the EDC Expenditures on the River Front. He said he was looking at the electrical and platform, he asked what is the purpose for this electrical system and the platform? He asked if permits were issued before this was put in? Were there construction plans? He asked if the Electrical Engineers are permitted with the City? Mr. Pearson asked who approves payments, and where is the money going?

Aaron and Lucy Ware spoke of the property at 2 South Front Street. They said they would like offer \$11,000 for the Levy property. Mr. Ware said this is good for the city because no one has offered \$11,000.

Sabrina Brimage spoke to council spoke about the two investigations that are going on by an outside attorney. She said to her knowledge, nothing has been done. She said she would like to see these done. She said there are things that need to be discussed in our city other than these investigations. She said every council meeting we are discussing investigations and nothing is getting done.

Manning Rollerson spoke of a PIR that he received. He said it is missing four officers. He said there is a coverup going on. Mr. Rollerson spoke of council acting like children. He said it is sad what the city

is going through. Mr. Rollerson spoke of the April boat rally that was held in the City of Freeport. He asked how the City did not know how this boat rally was going to happen? He said the Coast Guard did not know about this rally either.

George Matamoros spoke to council of his concern the direction the EDC is going. He said two members are running these meetings. Mr. Matamoros said the last meeting the EDC President, Mingo Marquez said they are the Board and citizens could not comment. He said the City Manager was not allowed to speak at this meeting. He asked council to look into the \$6000 invoice that was spent in electrical poles. He said Jeff said no one would quote on this job. He said it is time for council to remove these two from the EDC. He also said that he would like Jeff Pena to stop making negative comments about the city employees on social media.

Shawna Tidwell Office Manager with Penny's Electric spoke to council about the work that was done on the dock. She said her company went out to look at the work done because they were included on some invoices that are being talked about, and this has nothing to do with her company. She said so much of the work that was done, was not done properly. She said electrical companies are held to high standards and codes, and she does not understand why the city would not be held to those same standards and codes. She spoke of the EDC Meeting last week and not being allowed to talk. She said they don't like doing work with the EDC because they do not pay. She said it took seven months to get paid.

Brian Thompson with Penny's Electric spoke to council on the Riverfront lights. He said that the inspection on these lights should have never been passed and service turned on. He said the poles are not properly grounded, and there are holes the size of his hands, in the poles. He spoke of the permit charges. He said there are trip charges, which he doesn't believe there should be a trip charge.

Melanie Oldham spoke to council of her concerns of City Attorney Chris Duncan. She said she was approached by him, about Councilman Brimage. She said he told her Councilman Brimage has been talking to the Port Freeport and he would like to sell Lincoln Park, all the City owned Streets and ROW for \$440,000. She said she called Councilman Brimage and asked him about this statement. She said she is curious if this was Executive Session information.

Nicole Mireles said she has concerns with the EDC and how it is run. She said citizens were not allowed to talk. She said that Jeff Pena took over the meeting. She spoke of Councilmen Muraira and Pena adding to the Council agenda. She said it is ironic, but Muraira never speaks, it is always Jeff.

PRESENTATION/ANNOUNCEMENTS:

Presentation of the collection of delinquent taxes and court fine and fees from Mike Darlow with Perdue, Brandon, Fielder, Collins & Mott, LLP.

Mike Darlow with Perdue, Brandon, Fielder, Collins & Mott, LLP presented to council the annual collection of delinquent taxes and court fines and fees.

Presentation of the Annual Audit with Whitley Penn.

Laura Lynch with Whitley Penn presented to council the City's Annual Audit. It was a clean audit with no findings or issues to report.

Presentation for the Annual Veolia Report.

James Carter and Roger Rowe presented to council the Annual Veolia Report. Mayor Bass asked if there is a map of the sewer lines that have been replaced, he said he would like the citizens to see what has been replaced.

COUNCIL REGULAR AGENDA

Consideration and possible action on the approval of City Council meeting minutes from March 21, 2022, and April 4, 2022.

A motion was made by Councilman Brimage, seconded by Councilman Cain. With discussion that followed.

Councilman Pena asked if the Meeting Minutes from March 21, 2022 was amended to include the comment by Ms. Tilly? City Manager Tim Kelty said "yes".

Mayor Bass called the motion to a vote, with all present voting "Aye" 5-0 council unanimously approved the meeting minutes from March 21, 2022 and April 4, 2022.

Discussion and Possible Action regarding trash service agenda item revision

Sam Reyna spoke to council of the \$30.00 charge for anything over 5 CY. He read portions of the AmeriWaste contract. He spoke of the remodel work debris, he said it will not be picked up. Mr. Reyna spoke of the complaints that are coming in on AmeriWaste.

Janel Marin with AmeriWaste said there were 70 tons of bulky waste picked up in Freeport by AmeriWaste on the weekend before they took over, that was left by Waste Connections. She said since last Wednesday there has been 83 tons of bulky waste picked up in the City of Freeport. She spoke of the flyers and door hangers that have been sent out or hung on doors.

Jaime Ford the Freeport Supervisor with AmeriWaste showed a PowerPoint of what is compliant for pickup, and what is out of compliance.

Ms. Marin said there is about 7% that is out of compliance in the city, she said 53% is picked up, and about 47% is non-compliant. We need to continue to educate our citizens.

Councilman Cain said in Ward B this last pickup, he counted from the Saturday prior to the Saturday after was about 53% was picked up. Councilman Cain asked about the 18-inch diameter in wood, why 18-inches? Ms. Marin said it has to do with the blade and compacting system. She said anything over 18-inches will mess up the blades and the rails in the compacting system. Councilman Cain asked about the move out debris, he asked if this gets communicated to the city? Ms. Marin said yes, and the city reaches out to the owners of the home to let them know they are responsible.

Councilman Pena said 47% of trash is not being picked up. He said he has always seen trash service use a claw for bulky pickup. He said there is 60% of renters in Freeport. He said he would like to get the "mays" to "shalls" in the contract. Councilman Pena spoke about the tying and cutting of the brush. He said this is not practical. Councilman Pena said each Ward should maybe have a bin for brush only, or even have a community compost program. He spoke of having a drop off for hazardous waste and tires.

He said he does not want the residents to be penalized unfairly. He said there has to be better service solutions.

Councilman Muraira said he thinks that we need to schedule the city-wide cleanup sooner than the end of summer. He said he agrees that the citizens need to be educated. He spoke of a hazardous waste site. He does not want to see residents being fined yet, he said to give a deadline of when the fines will start.

Manning Rollerson said he has said for years that the city should have the city works back. He said the citizens should have the garbage picked up the way they want it picked up.

Mr. Bacon 1702 W. 10 asked about the elderly residents that are unable to tie and bundle their branches. Will we make this feasible for them?

Mayor Bass said he wants to make it very clear, Council had a chance to review this. There was a committee selected with two Councilman and the City Manager to review the RFP, Review the bids and Interview the contractors. One Councilman attended and the other did not. All Council voted for this.

Councilman Brimage said AmeriWaste is the only company that turned in a bid other than Waste Connections.

Julian (711 West 10) spoke to council about the trash service. He said he has no issues with the service. He said most citizens do not follow the rules.

Bob Casale said we need to decide on the issues with the trash. It does not take all this time to fix these problems.

Mr. Estrello said the more education and communications is needed. Mr. Estrello said the trash crew is good and fast at what they do.

Mayor Bass said Waste Connections had the same requirements as AmeriWaste.

Lucy Ware spoke about being a Landlord in Freeport. She said Landlords should not be responsible for tenant's move-out debris.

Pam Dancy has no problem with the service. Her problem is with trash being just thrown out. Citizens are failing.

Shonda Marshall spoke of the elderly and the handicap. She suggested a hotline system to help these individuals. Ms. Marshall said, we want to be compliant as well.

George Matamoros suggested creating a brush center to create mulch for the residents.

Councilman Pena said this is a long discussion, but he would rather give up an hour here tonight on this subject than wait 30-60 days for the trash to be picked up. Councilman Pena said that if there is an issue with something he will show up, because he is a gamer. Councilman Pena said we only had one bid, and the company needs to change for us.

Mayor Bass said the company said they will be up to talk about possible revisions.

Public Hearing: Public Hearing and discussion on Auto Repair and Service Ordinance

Mayor Bass opened the Public Hearing at 8:14 PM.

City Manager Tim Kelty presented to council discussion on the Auto Repair and Service Ordinance. He said that this ordinance was delivered to each business that are affected by this. They were invited to attend and submit their suggestions and attend a workshop. Based on feedback received the original ordinance was amended to accommodate some of the concerns. Mr. Kelty explained the ordinance and the changes.

George Matamoros spoke of a tire shop on Yellowstone that repairs big rigs on the side of the road. He said with this it turns Yellowstone to a one lane road. He spoke of these large trucks using Ave M and Ave O to get to this shop. He asked that this be looked into also.

Julian spoke to council about when an ordinance is passed, it needs to be enforced.

Mr. Estrello said it is appalling the reaction that was given to the Councilman, by the Mayor. He said council does not know what it takes to run an auto business.

Councilman Cain said he likes that minor repairs are being allowed to be done outside the shop. He said the Ordinance it keeps from having engines being rebuilt outside. He said we are talking about the trash on the streets, he said we have to help clean this City up. He said this is fair to the shop owners. He said there was good discussion with the shop owners when we had our last meeting with them.

Councilman Muraira said he is glad the changes were made to this ordinance. He said the city is showing that they want to be pro-business. He said we have heard the mechanics concerns. Councilman Muraira said there are a lot of complaints from citizens and mechanics, and this works both ways.

Councilman Pena said when he had the meeting with Councilman Muraira and mechanics, there was about twenty business owners. He said he is curious if there were the majority of business owners involved through this process? Councilman Cain said at the last meeting letters were sent out to all effected business owners. He said there were two written responses that were very vague. He said ultimately there were seven or eight owners that showed up to the meeting. Ms. Roman said there were emails sent, phone calls made and invitations delivered. She said we tried to get feedback. Councilman Muraira said he has also met with some mechanics and got their input. Councilman Muraira said they gave input, but they are not excited. Councilman Pena asked if there is an active list of non-compliant shops? Ms. Roman said no, we will start when the ordinance is passed.

Ms. Dancy said the shop owners are trying to make a living. But the city is trying to clean up the city as well.

Mayor Bass closed the Public Hearing at 8:32.

Consideration and Possible action on Ordinance No. 2022-2663 approving Amendment to the 4-inch Sewer Tap Ordinance

Finance Director Cathy Ezell presented to council Ordinance No. 2022-2663 approving Amendment to the 4-inch Sewer Tap Ordinance. She said the purpose for this ordinance will allow for the tap fees and cut-on and cut-off fees to be added to the Master Fee Schedule. She said it will also allow the city to re-coop cost.

A motion was made by Councilman Cain, seconded by Mayor Bass. With discussion that followed.

Councilman Pena said he is curious on this amendment is the 4-inch sewer tap attached to the drainage system? Mr. Kelty said it is the sanitary sewer system.

Mayor Bass called the motion to a vote, with all present voting "Aye" 5-0 council unanimously approved Ordinance No. 2022-2663.

Consideration and Possible Action on Resolution No. 2022-2745 Amending the Master Fee Schedule for Water and Sewer Taps Charges.

Finance Director Cathy Ezell presented to council Resolution No. 2022-2745 Amending the Master Fee Schedule for Water and Sewer Taps Charges. She said what this will do is establish the fees in the Master Fee Schedule. Mayor Bass asked about the current \$20 fee for the 4-inch sewer tap. Ms. Ezell said in the old ordinance the fee is \$20, she said a sewer tap being requested is \$1000, which is the city's cost for the installation of the new tap.

Councilman Pena asked who will this price increase affect? Ms. Ezell said it will affect new development. Ms. Ezell said this is a break even, the city is not making any money.

Mr. Garcia said he builds home in the city, he is wondering how this fee is comparable to other cities? He said the builders incur these fees and he thinks this will cause his cost to go up.

Councilman Pena thanked Mr. Garcia for his comment. Councilman Pena said he encourages development in the city, and he encourages a graduated fee increase. We want to encourage builders to come to the City of Freeport.

There was lengthy discussion on the utility fund.

Councilman Cain asked if the \$1000 charge was just passed recently, or is this something we have just been living with? Ms. Ezell said it is something we have been living with for a while, and we just have not adjusted the rates. Councilman Cain asked about larger than a 4-inch tap, how much more would this typically cost? Ms. Ezell said it will depend on the size, and the location of the tap.

Councilman Brimage removed himself from the vote because he is a builder and this will affect him.

Mr. Garcia asked Veolia will be the one putting in the sewer taps from now on? Ms. Ezell said yes, Veolia will be installing the sewer tap.

A motion was made by Councilman Cain, seconded by Mayor Bass. With discussion that followed.

Councilman Cain asked Mr. Garcia if this will cost him an extra \$200 and not an extra \$1000? Mr. Garcia said he is not sure of what the fee will be, he said he will have to talk with his contractor. Councilman Cain asked if this is passed, who will pay the \$1000? Ms. Ezell whoever applies for the sewer tap will pay the fee and then the city pays Veolia the actual cost of the tap.

An amended motion was made by Councilman Cain to the fee being charged in increments starting with a \$500 fee, and raising each year after, seconded by Mayor Bass. With discussion that followed.

Councilman Pena said he likes that Veolia is doing the taps, and he likes the graduated approach.

Mayor Bass called the motion for a vote. With a 4-0 vote council approved Resolution No. 2022-2745. Councilman Brimage abstained from the vote.

Consideration and Possible action on approval of Residential Street Lighting plan for 2022 street light additions.

City Manager Tim Kelty presented to Council Residential Street Lighting plan for 2022 street light additions. He said Centerpoint will allow us to install 50 lights per year with no cost to the city. He said once installed the city will be responsible for paying the electric bill for the lights. Mr. Kelty said there is concern that the City is dark and not well lit.

A motion was made by Councilman Pena, seconded by Councilman Cain. With discussion that followed.

Councilman Muraira said that he would like to make some changes. He said, the five lights from North Ave Q to North Ave U, between Yellowstone and Varner. Councilman Muraira said that he would like to move these to the 1700 block of 7th Street between Dixie and Yaupon. 6th Street between Dixie and Yaupon. 5th Street between Dixie and Yaupon. The other two would go at the intersection of North Ave D & Old River Road, the other light will go mid-block between North Ave B and C on Old River Road.

Councilman Pena amended his motion to include the changes requested by Councilman Muraira, seconded by Councilman Cain, with all present voting "Aye" 5-0 council unanimously approved Residential Street Lighting plan for 2022 street light additions.

Discussion on Tim Kelty's Job performance response.

Councilman Muraira presented to council Tim Kelty's job performance response. He said that he would like this to be moved to Executive Session. Mr. Kelty said that he would like this to remain in Open Session. Councilman Muraira said in regards to the job performance that occurred a few weeks ago, he thinks the process that we went with did not get down to what it should have. He said he believes a job performance review should list things that we can do better. Not a guilty or not guilty. Councilman Muraira said he thinks there are things that we can do better.

Mayor Bass said that Mr. Kelty gets an annual review each year. Each Council Member is given a form to evaluate how Mr. Kelty has done. He said what we did a month ago was respond to a list of accusations that council felt strongly enough to discuss. Mr. Kelty received this list and was given time to prepare in order to respond. Mayor Bass said there will be a job performance in August.

Councilman Pena said he assumed this item would be in Executive Session. He said the last meeting was a 4-1 vote, he voted Ney. He asked about the Open Record Request by the Fact's to get information on the discussion. He asked if this is now in public domain? Mayor Bass said he believes it is now in the public eye. City Attorney Chris Duncan said this item is in Open Session, it is now for Open Review. Councilman Pena said his performance review list of 14 items was not included in the review process. He said the Lucy Ware PIR on the property is not complete. He said he will be bringing this back as a request on an agenda.

City Manager Tim Kelty said allegations were made. He said he presented to council a book of responses with emails and other documentation refuting the allegations, so that he could show the allegations were false. He said that this is now Public Information, and he will answer any questions Council may have.

Pam Dancy said finds it funny that Mr. Kelty purchased a home from Mr. Brimage, when he was Mayor. She said this is stuff that happens that makes it look funny.

Mr. Kelty said the house had been listed for several weeks or months prior to him making an offer, and he paid the listed price.

Councilman Muraira said Mr. Kelty said the allegations were false. Councilman Muraira said there was a list, as Mr. Kelty said and his belief is you can't prove intentions. He said he will leave the rest to the Attorney General.

Attorney performance review

Councilman Pena said he assumed this would be in Executive Session. He said he would like to move this into Executive Session.

Mr. Duncan said he will wait to see what the council's preference is.

Councilman Brimage asked why would we go into Executive Session? He said it was put in Open Session, the people need to know, and Chris is a contractor. Councilman Brimage said our City Attorney has caused disruption in the City, we cannot operate on a normal basis anymore. Councilman Brimage said his time here is done, we have to move on.

Councilman Cain asked, what was discussed last week in Executive Session, if brought up in Open Session, would that be against the rules? Mayor Bass said this is a very slippery slope. He said he wishes neither of these items were placed on the Agenda.

Chris Duncan said that he will leave this to the preference to Council.

George Matamoros said where is the transparency if this goes into Executive Session?

Marinell Music said she has worked with Mr. Duncan on a lease agreement, she said she was misled by him.

Melanie Oldham said she does not understand the role of Mr. Duncan as the EDC and City Attorney. She said things are getting blurred, she said she is concerned.

There was discussion of TML handbook, of who is allowed to request to be moved to Executive Session.

Chris Duncan said he recommends council make a motion and take a vote of whether to keep in Regular Session or move to Executive Session.

Councilman Cain asked if discussed in Executive Session, can it be discussed in Open Session. Mayor Bass said we need the advice from City Attorney. Mr. Duncan said he cannot give advice because this pertains to him.

Lucy Ware asked who will pay for the legal advice? Mayor Bass said we do.

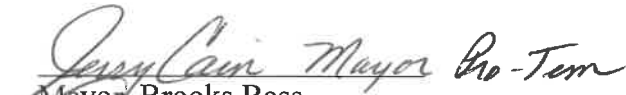
Councilman Brimage asked if we can discuss his termination, he is killing the city by dragging this out week after week.

Mayor Bass said we need to get the opinion from an outside TML Attorney.


Sabrina Brimage asked what will be done about Chris Duncan's social media post, making accusations against Councilman Brimage, that make Councilman Brimage look bad. She asked can the City Attorney be allowed to do this? She said would you allow an employee to do this, shouldn't he be treated the same as an employee? Mayor Bass asked Mr. Duncan if he made a post about a Councilman? Mr. Duncan said "yes I did".

Adjourn

A motion was made by Councilman Brimage, seconded by Mayor Bass to adjourn. With a 3-2 vote, Mayor Bass adjourned the meeting at 9:55 PM. Councilmen Muraira and Pena voted "Ney"



Mayor, Brooks Bass
City of Freeport, Texas



City Secretary, Betty Wells
City of Freeport, Texas

5/16/20