

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, January 24, 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 by Phone  
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  
Lance Petty, Public Works Director  
Chris Motley, Fire Chief  
Kacey Roman, Building Official  
Ray Garivey, Freeport Police Chief  
Laura Cramer, Special Project Coordinator/GIS

Visitors:

Raven Wuebker	Sabrina Brimage
Melanie Oldham	Tommy Pearson
Desiree Pearson	Sam Reyna
Manning Rollerson	Kenny Hayes
Ron Bavarian (F & N)	Sandra Barbree
David McGinty	Jimmy Salinas

**Call to order.**

Mayor Pro Tem Cain, called the meeting to order at 6:02 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Invocation was led by City Manager Tim Kelty, Pledge was led by Mayor Pro Tem, Cain.

**CITIZENS' COMMENTS:**

Jimmy Salinas 1427 W. 10<sup>th</sup>, spoke to council of his concerns with the current new trash service. He said there is no recycling with AmeriWaste. He asked that the recycling program be brought back to the city, he said that we need this in our city.

Kenny Hayes 414 Mystery Harbor Lane, he spoke to council about a past article that was written in the paper. He spoke of Mr. Pynes and the corruption. Mr. Hayes said you are bickering back and forth towards the wrong person; tax payers and residents remember what Mr. Brimage did for our city. He cleaned up the corruption, helped the City Manager until one was brought in, waded in flood water. The tax payers and residents remember.

Manning Rollerson spoke to council about a Public Information Request to the city. He spoke of the ordinance allowing city employees to enter residents' homes. He said this is illegal. He said that people will be homeless because of council. Mr. Rollerson said that Troy Brimage has done a lot of good things for the city, he said you have to give honor where honor is due. Mr. Rollerson said that the city residents should not see elected officials acting like children, you have to do better.

**PRESENTATIONS/ANNOUNCEMENTS:** Announcements by Mayor, City Council and/or Staff.

**CONSENT AGENDA:**

Consideration and possible action on the approval of City Council meeting minutes from January 10, 2022.

Consideration and possible action approving the road closures for the Mardi Gras Event on February 26, 2022

Consideration and possible action approving the date change for the second Regular Council Meeting in February due to Presidents Day Holiday.

Consideration of approving Resolution No. 2022-2735 declaring a 2013 Chevy Tahoe Police unit with 110,497 miles as surplus and authorizing as disposal (to be donated to the Oyster Creek, Texas Police Department

Councilman Pena requested the items 2 & 4 be placed in regular session. Councilman Brimage made a motion to approve items 1 & 3 on the consent agenda, seconded by Councilman Muraira. With all present voting "Aye" 5-0 vote, Council approved item numbers 1 & 3 on the Consent Agenda.

**COUNCIL REGULAR AGENDA:**

Consideration and possible action approving the road closures for the Mardi Gras Event on February 26, 2022.

City Manager Tim Kelty presented to council the action of approving the road closures for the Mardi Gras Event on February 26, 2022. He said this is the first ever Mardi Gras in downtown, it is being sponsored by the Freeport EDC. Mr. Kelty said the road closure downtown will be from 9am-6pm. And on Velasco and 2<sup>nd</sup> street from 11:00 a.m. to 12:00 p.m.

Councilman Pena asked about the security and the funding for this event. Mr. Kelty said the funding was budgeted for this event and supplemented by the EDC. Councilman Pena asked who will be selling the beer for this event? Mr. Kelty said the city will be selling the beer under the Golf Course license.

On a motion by Councilman Muraira, seconded by Councilman Pena. With all present voting "Aye" 5-0 vote, Council unanimously approved the action of approving the road closures for the Mardi Gras Event on February 26, 2022.

Consideration of approving Resolution No. 2022-2735 declaring a 2013 Chevy Tahoe Police unit with 110,497 miles as surplus and authorizing as disposal (to be donated to the Oyster Creek, Texas Police Department)

Chief Garivey presented to council Resolution No. 2022-2735 declaring a 2013 Chevy Tahoe Police unit with 110,497 miles as surplus and authorizing as disposal (to be donated to the Oyster Creek, Texas Police Department. Chief Garivey said that this is one of our older units, he said that the unit does need some work.

On a motion to approve by Councilman Brimage, seconded by Councilman Muraira, discussion that followed.

Mayor Pro Tem, Cain asked if this is an older vehicle that would be scraped before long. Chief Garivey said yes, and it does need work and the Chief has been made aware.

Mayor Pro Tem Cain called the motion for a vote. With all present voting "Aye" 5-0 vote, Council unanimously approved Resolution No. 2022-2735 declaring a 2013 Chevy Tahoe Police unit with 110,497 miles as surplus and authorizing as disposal (to be donated to the Oyster Creek, Texas Police Department.

Consideration and Possible action on Notice of Award for bid for Phase 1 Concrete street repairs.

Public Works Director, Lance Petty presented to council for action to award the bid for Phase 1 Concrete Street Repair. The city received a total of five bids from the following; Lucas Construction Company \$2,360,303.50, Sorrel Construction \$2,931,656, Metro City \$3,113,786, HTI Construction Inc. \$3,202,181 and Tandem Services, \$3,271,046.65. Mr. Petty said staff recommends awarding the bid to Lucas Construction Company.

Ron Bavarian with Freese and Nichols spoke to council about this project. He also said he is excited for the road construction. Mr. Bavarian said his goodbyes to council.

Councilman Brimage made a motion to approve the award, seconded by Councilman Muraira, with discussion that followed.

Councilman Pena asked if we have used Lucas Construction before? Mr. Petty said no, but our engineers have worked with them. Councilman Pena asked why we would not go with the local bid from Sorrel? Mr. Kelty said there is a \$600,000 difference.

Mayor Pro Tem Cain called the motion for a vote. With all present voting "Aye" 5-0, Council unanimously approved awarding the bid to Lucas Construction Company for Phase 1 Concrete Street Repair.

Consideration and possible action on Notice of Award for bid for construction of new Public Works offices.

Public Works Director, Lance Petty presented to council the action to award bid for construction of new Public Works offices. The city received three proposals at the bid opening on January 18, 2022 from; Covarrubias Remodeling Services, \$203,200.99, Innovative Designs \$232,000, and Noble Building and

Development, \$346,000. Mr. Petty said that staff recommends awarding the bid to Covarrubias Remodeling Services. He said that we have worked with this company before on a number of projects, and they came in with the lowest bid. Mr. Petty said that city council authorized expenditures in the 2021/2022 budget of \$200,000.

Councilman Muraira made a motion that this item be tabled. He said he would like to see the money be used to fix the Levee Walking Trail and the lighting for soccer fields, he said he would like to see more work done for the community. Mr. Petty said the Levee Walking Trail will be going out for bid again.

Mayor Pro Tem Cain said this project was budgeted, just for this reason. Mr. Petty said the work has to be done. He said the Secretary is working in the warehouse, the building is full of mold.

Mayor Pro Tem Cain called for a second on the Motion to table this item, with a second by Councilman Pena.

Councilman Pena said this item is budgeted, and it is something that is going to be needed, but we need to make sure we are servicing the community as much as we are as the staff.

Mayor Bass asked that the motion to table the award for bid for construction of new Public Works offices Be called for a vote, the motion failed with a 2-3 vote, with Mayor Pro Tem Cain, Councilman Brimage and Mayor Bass voting "Nay"

On a motion by Councilman Brimage, seconded by Mayor Bass to award the bid for construction of new Public Works Offices to Covarrubias Remodeling Services, with all present voting 3-2, Council approved awarding the bid. Councilmen Pena and Muraira voted "Nay".

Consideration and possible action approving Ordinance No. 2022-2655, amending the budgeted amount for the Public Works Building.

Public Works Director, Lance Petty presented to council Ordinance No. 2022-2655, amending the budgeted amount for the Public Works Building. Mr. Petty said staff recommends to approve this Budget Amendment for \$30,000. The Budget Amendment will offset expenditure overages by shortages based on the actuals. He said this is for Construction of the new Public Works Building for \$3,200.99, Engineering Design for \$1,900.00, Centerpoint Drop \$3,800, re-locate internet and phones from existing building to new building \$5,000, Water/Wastewater extension to new building \$3,000 and Demo of existing building \$10,000.

On a motion by Councilman Pena, seconded by Councilman Brimage, with all present voting 4-1 vote, Council approved Ordinance No. 2022-2655, amending the budgeted amount for the Public Works Building. Councilman Muraira voted "Nay".

Consideration and possible action approving Ordinance No. 2022-2656 amending regulations and establishing rates for solid waste to be established in the Master Fee Schedule.

Melanie Oldham spoke of her concerns on the city getting the recycle program back. She said this is important to a lot of residents.

Councilman Brimage said this contract has been executed, and recycling has been gone from the City way before this contract was signed.

Mayor Bass said this contract was executed by approval on December 6, 2021. He said the company is already working on getting the cans out.

Councilman Brimage said he agrees with the Mayor, he said we had two meetings prior to the contract being signed. He said everything was explained in these meetings.

City Attorney Chris Duncan said the contract cannot be terminated, unless there is a breach in the contract.

Councilman Pena said he has received a lot of calls on the size of the canisters. He has concerns of bags sitting out and animals getting into them.

Councilman Brimage made a motion to approve Ordinance No. 2022-2656 amending regulations and establishing rates for solid waste to be established in the Master Fee Schedule, with a second by Mayor Bass with all present voting 4-1, motion passed. Councilman Pena voted "Nay".

Consideration and possible action on Resolution No 2022-2736 amending master fee schedule setting new rates for Solid Waste Service and the sale of trash bags.

City Manager Tim Kelty presented to council Resolution No 2022-2736 amending master fee schedule setting new rates for Solid Waste Service and the sale of trash bags. He said this will set the rates on the Master Fee Schedule for Residential and Commercial rates, set the cost for the second cart cost, and for the trash bags that the city will begin to sell.

On a motion by Councilman Brimage, seconded by Councilman Muraira.

Mayor Pro Tem Cain called the motion for a vote, with all present voting "Aye" 5-0 Council unanimously approved Resolution No 2022-2736 amending master fee schedule setting new rates for Solid Waste Service and the sale of trash bags.

Discuss and Take Possible Action on Budget Amendment for Supplementing the Completion of FM1495 Beach Entry and to Get Engineering and Pricing for the Asphaltting of CR723 and CR241.

City Manager Tim Kelty presented to council Possible Action on Budget Amendment for Supplementing the Completion of FM1495 Beach Entry and to Get Engineering and Pricing for the Asphaltting of CR723 and CR241. He said this was requested by Councilmen Pena and Muraira to be placed on the agenda. Mr. Kelty said last week he met with Mr. Petty and Councilman Pena out at the beach to get an idea of the scope he was wanting. Councilman Pena had also requested palm trees, and a place for food trucks at the main entrance. As well as replacing the existing asphalt at the entry way, widen the entire road, this will add additional parking off the road way. Mr. Petty put together an estimated cost for the project, including \$215,000 for additional asphalt for the main entry road, and \$41,000 for palm trees along one side. He also had an estimated cost for asphaltting the secondary beach access road of \$1,445,000. Mr. Kelty said this is something that will have to go out for bids.

Councilman Brimage said we just had two councilmen say that we need to focus on the soccer field lights for our children. But on the agenda is \$4 million for a concrete road that will not last through our first hurricane. He said there will be no return on this, and this is just a liability. He said this makes no sense.

Kenny Hayes said we need to learn from history. We have seen this done twice, and it doesn't last. It will get torn up. He said this is a waste of the tax payer's money.

Councilman Muraira said he only thought this was a good item for discussion.

Mayor Pro Tem Cain said he loves the vision that Councilman Pena has of having food trucks on the beach. But he has reservation extending the asphalt out as far as being requested. He said a good storm will cause this to wash out. He said possibly widen it further from the water, with a section for the food trucks, maybe with crushed concrete.

Councilman Pena said he wants to always present new ideas, and he appreciates Councilman Muraira support. He said this could be beneficial to the city, and he does not think it's a waste of time. He said the current road to the beach has not been broken. He said CR 241 & 273 have not eroded. He said this is about the City of Freeport Brand. Councilman Pena said we are going to spend \$203,000 on a Service Center that has no revenue, but not \$215,000 on reinvesting in ourselves. Councilman Pena said if we are going to invest in our employees to have a safe work environment, we need to also reinvest for our future.

Councilman Pena made a motion to approve possible action on Budget Amendment for Supplementing the Completion of FM1495 Beach Entry and to Get Engineering and Pricing for the Asphalting of CR723 and CR241.

Sandra Barbree spoke on the roads eroding, she said she has experienced the erosion of these roads years back, when trying to make deliveries at Quintana. She said that she would rather see this money spent on our soccer field lights, for our kids.

Mayor Pro Tem Cain called for a second on the motion. With a lack of a second, motion died.

Discuss and take possible action to set agenda procedures for Special Meetings.

City Manager Tim Kelty presented to council possible action to set agenda procedures for Special Meetings. He said this was requested by Councilmen Pena and Muraira to be placed on the agenda. Mr. Kelty said in November Council adopted an Ordinance 2021-2650. Mr. Kelty asked if this ordinance can be amended verbally, or if a new ordinance will need to be written prior to adoption.

City Attorney Chris Duncan said there must be 72-hour notice of Special Meeting, and we will make a new ordinance.

Councilman Brimage said he disagrees with this, he said Councilman Pena is upset because of the accusations he is making against me. And the public did not know a Third-Party Investigation is being requested on my 380 Agreement that I had with the City. Councilman Brimage said he has nothing to hide.

Councilman Pena made a motion to amend the ordinance to require 96-hour notice to request a Special Meeting, and whatever agenda language request is made, it will not be manipulated, and it will appear in Open and/or Closed Session, seconded by Councilman Muraira, discussion followed.

Sandra Barbree asked if it still took two council members to change or add to the agenda? Mr. Kelty said this did not change, we just set a deadline of when it is due to staff.

Mayor Bass said the Charter is clear on Regular and Special Meetings.

Mayor Pro Tem Cain called the motion for a vote, with all present voting 3-2, motion passed to approve Ordinance No. 2022-2657 Setting Agenda Procedures for Special Meetings to require special meeting requests by Council members be received 96 hours prior to the Special Meeting, and that whatever language request is made it will not be manipulated, and it will appear in Open and/or Closed Session. Mayor Bass and Councilman Brimage voted "Nay".

Discuss and take possible action to amend contract with Ameri-Waste Trash Services; ie trash bin sizes, trash bags, etc.

Janell Marin, asked that AmerWaste be given a chance. She explained how the service will work, and benefit the city. She said they will start pick up on January 31, 2022. Mayor Pro Tem Cain, said human nature is leery of change, but he thinks this is a good change for the city.

There was discussion by council on this item, and no action was taken.

Consideration and possible action on Resolution No. 2022-2737 for appointing a member to the Senior Citizen Board.

City Manager Tim Kelty presented to council Resolution No. 2022-2737, appointing a member to the Senior Citizen Board. He said we have one vacancy by the resignation of Mary Talbert and one application from Dolores Knox who is interested in serving on this board, to complete the term that will end on May 31, 2022.

On a motion by Councilman Brimage, seconded by Councilman Pena, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2022-2737, appointing Dolores Knox to the Senior Citizen Board, to finish the term ending on May 31, 2022.

#### **WORK SESSION:**

Mayor Bass had no comment.

Councilman Pena had no comment.

Councilman Cain said we need to give the new trash company a chance. He said we have no reason to doubt them. He thanked Janelle with AmeriWaste for being at the meeting. Janelle explained to council the directions are on the can. Mr. Kelty said another flyer will be going out in the water bills, as well as door hangers being hung on residents' doors.

Councilman Muraira asked if we were on Facebook Live? Mr. Kelty said "yes". Councilman Muraira said he likes this.

Councilman Brimage asked when the EDC will be going to Facebook Live with their meetings? Councilman Cain said he spoke with Mingo Marquez, he is trying to mute the comments and then we will be going live. Councilman Brimage said the EDC was instructed by the Mayor to do this. Councilman Pena said this is on the next agenda. Councilman Brimage said this was ordered that EDC do the Facebook Live, it should not be on the agenda. Chris Duncan said there was no administration to work the Facebook Live, he said it will be up at the next meeting. Chris Duncan said this will be public record, must be maintained and made available for public request.

Update on reports / concerns from Department heads

**CLOSED SESSION:**

*Open session was closed at 7:44 pm and Council entered into Executive Session*

Executive Session regarding a.) (Potential Litigation) consultation with city attorney b.) (Deliberations about Real Property), East End in accordance with Government Code Annotated, Chapter 551, Sections 551.071, 551.072.

*Executive session was closed at 8:04, and Council entered into Open Session.*

On a motion by Mayor Bass to allow City Manager Tim Kelty to attend the whole Executive Session, seconded by Mayor Pro Tem Cain with a vote 2-2, the motion did not pass. Councilmen Muraira and Pena voted "Nay".

On a motion by Mayor Bass to allow City Manager Tim Kelty to come into Executive Session at the most appropriate time, seconded by Mayor Pro Tem Cain, with all present voting "Aye" council unanimously approved allowing the City Manager into Executive Session at the appropriate time.

*Open Session was closed at 8:07 pm and Council entered back into Executive Session.*

*Executive session was closed at 9:15 pm, and entered back into Open Session.*

On a motion by Councilman Brimage to have a third-party investigation on the Purchase of the Boys and Girls Club by Councilman Pena, seconded by Councilman Cain with a vote 4-0 motion passed. Councilman Pena abstained from the vote.

On a motion by Mayor Pro Tem Cain he recommends that the City retain, Denton, Navarro, Rocha, Bernal and Zech, PC to perform an independent inquiry into BrazTex 380 Agreement, seconded by Councilman Muraira with a vote 4-0 motion passed. Councilman Brimage abstained from the vote.

Sandra Barbree asked who is paying for this? Mayor Pro Tem said the city is.

Adjourn

On a motion by Councilman Muraira, seconded by Councilman Pena, with all present voting "Aye", Mayor Pro Tem Cain adjourned the meeting at 9:18 P.M..

  
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Mayor, Brooks Bass  
City of Freeport, Texas

  
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City Secretary, Betty Wells  
City of Freeport, Texas