

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, December 20, 2021 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 Absent
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
Clarisa Molina, Administrative Assistant

Visitors:

Raven Wuebker	Sabrina Brimage
David McGinty	Don Williams
David Estrello	John G.
Sandra Barnett	Jim Barnett
Diane McCleaster	Tommy Pearson
Sam Reyna	Manning Rollerson
Antonio Munoz	Breanna Brimage
Melanie Oldham	Keith Hardy
Brendan Brimage	Juan Nava
Victor G.	Juan Duran
Dennis Jones	Cynthia Jones
Adolfo Castillo	Gracilla Salina
Con McCleaster	Diane McCleaster
Ramon Vigil	Alfanzo Macias
Francisco Cadenas	Linda Duran
Johnny Kouches	Maria Kouches
Jason Hayes	Jana Barnes
Jason Yarberry	Cassie Brant
Melanie Oldham	

Visitors, Via Teleconference:

Laura Tolar
Lisa Hayes
Paul Crow
Vander Williams

Robert Cramer
Kevin Pell
Haley Smith
Kevin Pell

Call to order.

Mayor Pro Tem Jerry Cain called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

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

CITIZENS' COMMENTS:

John G. asked council if the auto repair shop ordinance will affect his business that he runs from his home. He said that he does oil changes, and changing tires. City Attorney Chris Duncan told John that council could not answer him. He said that he can contact the City Manager for help.

Sam Reyna 2002 N Ave G spoke to council about the sprinkler systems and businesses around town. He said the business on 403 Gulf Blvd., has been trying to open, and the issues were not resolved and the business left. He said the distillery that is wanting to open was told they need a fire wall and a sprinkler system. Mr. Reyna said this is not true it is one or the other. He said we have lost a lot of businesses. We need to amend the ordinance.

Antonio Munoz spoke to council of the ordinance and the problem it is causing for some mechanic shops. Mr. Munoz said some of these businesses cannot afford to put up fences. He said he needs clarity on this ordinance.

Manning Rollerson said we cannot be putting restrictions on buildings that were built in the 50's. He asked council why they neglected the people of the East End? Mr. Rollerson said that the city needs to take responsibility. Mr. Rollerson asked how the Mayor could appoint Brimage. He said that this is the same person that stabbed the East End citizens in the back. Mr. Rollerson spoke about Title VI rights for the minority citizens. Mr. Rollerson told Councilman Pena that the owner of the Ocean Food Mart has been trying to get in touch with him.

David Estrell 624 North C, spoke about the mechanic shops and what they bring to the city. He said they pay taxes, and provide sales tax. Mr. Estrell said customers have asked which Council Members voted for this ordinance. Mr. Estrell said that it is taking longer to get parts because of the pandemic so it is taking longer to repair the vehicles. Mr. Estrell said that the owners of these shops eat in local restaurants. He spoke of residents parking on the streets, as well as churches.

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 December 6, 2021.

Consideration and possible action approving the date change for the first and second city council meetings in January 2022, due to the New Years and Martin Luther King Holidays

Consideration and possible action to adopt a Resolution No. 2021-2729, to designate authorized signatories for the Community Development Block Grant-Mitigation (CDBG-MIT) program for GLO State Contract Number 22-082-013-D213

Consideration and possible action to adopt a Resolution No. 2021-2730, to designate authorized signatories for the Community Development Block Grant-Mitigation (CDBG-MIT) program for GLO State Contract Number 22-085-047-D300

Consideration and possible action to adopt a Resolution No. 2021-2731, regarding Civil Rights which includes the following policies: Section 3 Policy. Excessive force policy. Limited English Proficiency (LEP) Standards Plan. Section 504 Policy and Grievance Procedures. Code of Conduct Policy and Fair Housing Policy

Consideration and possible action to approve April as Fair Housing Month: This proclamation will help to fulfill Fair Housing activity obligations as required by the grant.

On a motion by Councilman Muraira, seconded by Councilman Brimage, with all present voting "Aye" 4-0 vote, Council approved item numbers 1-6 on the Consent Agenda.

COUNCIL REGULAR AGENDA:

Councilman Muraira asked that item # 14 be moved to the first item in Council Regular Business.

Discussion and Possible Action to delay enforcement of Ordinance 2021-2641 and Schedule Public Hearing.

City Manager Tim Kelty presented to council the process of enforcement of Ordinance 2021-2641 adopted in October. He said once this ordinance was adopted Council requested that staff take enforcement of this slowly. He said there was a workshop held with affected businesses, and there were about 18-20 in attendance. Mr. Kelty said their concerns were discussed and the regulations explained, as well as staff's intention to delay enforcement. Mr. Kelty said staff will meet with each shop individually at their request.

Councilman Muraira said, council should have been notified of this workshop, he thinks there should be at least two council members in attendance at these type of workshops. He said he met with the mechanics on December 13, at the Freeport Municipal Park, and he was told nothing was resolved. Councilman Muraira said he feels we need to take a step back on this. We need to have meetings with mechanics and we should do this piece by piece.

Councilman Brimage said he feels that the city has been very lenient. This ordinance was passed back in October, and no one has received a fine. This ordinance comes as a result of complaints by residents of the City of Freeport. Councilman Brimage said he serves the citizens of Freeport.

Councilman Pena said that council passes these ordinances, but they are not set in stone. We want to listen to the citizens. But this is not a citizen versus mechanics. Councilman Pena said hopes we have learned from this. He said he wants to suspend this ordinance and hold a Public Hearing.

Councilman Pena made a motion to delay Ordinance No. 2021-2641, and schedule a Public Hearing before considering further action, seconded by Councilman Muraira with discussion that followed.

Councilman Muraira said the mechanics this ordinance affects, some are citizens of Freeport, and are tax payers. He said we need to make changes to the ordinance, and work with these mechanics. We need to take them into consideration, and take a step back. He said this is important.

City Manager asked since Ordinance 2021-2641 was adopted by council, do we need an ordinance to rescind it? City Attorney Chris Duncan said there are a few different options we can do. He said we can repeal the ordinance, or we can amend the ordinance, by changing the effective date.

Councilman Pena amended his motion to repeal Ordinance No. 2021-2641, and hold a Public Hearing.

Councilman Cain said he encourages citizens to be more involved, and not just when it affects you. Every decision we make affects all of us, in one way or another. Every decision that is made, is not going to please everyone. He said we are not here to drive you out of business, but to support the whole city.

Mayor Pro Tem Cain called for a second to the amended motion to repeal Ordinance No. 2021-2641, motion was seconded by Councilman Muraira with discussion as follows.

Juan, 2002 Victoria, spoke of the falling down fences, he asked how this ordinance will solve the problem? He asked if council comes and checks on the businesses?

Antonio Munoz spoke of the Shipley's complaints, and the cars that are parked on the streets from the mechanic shops. He said what about the residents that are parked on the streets? We need to come to a favorable solution.

Manning Rollerson said this will hurt the small businesses in Freeport.

Mayor Pro Tem Cain called the motion for a vote to repeal Ordinance No. 2021-2641, and to hold a Public Meeting, with all present and voting vote 3-1, Ordinance No. 2021-2641 was repealed. Councilman Brimage voted "Ney".

Discussion and Consideration regarding Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654.

City Manager Tim Kelty presented to council Zoning Ordinance No. 2021-2653 and Subdivision Control Ordinance No. 2021-2654. He said there were minor corrections to the map. Mr. Kelty said the concerns City Attorney Chris Duncan had with the ordinances, have been corrected as well. Mr. Kelty said the map and the ordinances have been posted on the website.

Councilman Pena said issues were brought up in the last meeting, he feels this needs to go back to the Planning and Zoning Commission so the public can speak.

Councilman Muraira asked if Chris Duncan's concerns were all taken care of? Chris Duncan said "yes.

Building Official Kacey Roman said the Planning and Zoning Commission approved this, with a few corrections. She asked if Councilman Pena is wanting this to go back to Planning and Zoning, he said yes.

City Manager Tim Kelty said the Planning and Zoning has held several Public Meetings on this ordinance. He said the corrections that were made were things that were overlooked and were not substantive in nature. He said for this to go back to the Planning Commission would be unproductive.

Councilman Muraira said that he agrees with Mr. Kelty, this has already been approved by the Planning and Zoning Commission.

Mayor Pro Tem, Jerry Cain said we will plan to have a Public Hearing on January 10, 2022, at our regular City Council Meeting.

Discussion regarding establishing Rental Inspection Program.

Building Official Kacey Roman presented to council discussion establishing the Rental Inspection Program. Ms. Roman said Council had asked that staff come up with a proposal for the Rental and Inspection Program. She said we are proposing this because all of our citizens deserve a safe a habitable place to live. These inspections will help both our citizens, and our business owners, there will be documentation on both sides. Staff is recommending we start with apartment complexes and small multifamily complexes of four units or more. Ms. Roman said that we will allow more time for compliance and work with properties requiring more extensive repairs. This program is funded by a \$3.00 charge monthly on their water bill.

City Manager Tim Kelty, said this will help with issues like the AC's or stairs that may be unsafe. He said this is being brought tonight to introduce, and to get feedback.

Councilman Brimage said we just said "we don't want government in our business". So why are we going to waste our time and money to do something like this?

Mayor Pro Tem Cain, asked will inspections occur when a unit becomes vacant each time, or when the unit has been vacant for a certain amount of time? Ms. Roman said we can go either route. It will be at the guidance of council. Mayor Cain also said, IPMC does not specify properly working AC. Ms. Roman explained it does not specify AC, but it does say appliance, and if it is present, it must work.

Councilman Pena said he has a strong response to this; rental properties and real estate does not want the city to get involved. He said why aren't we engaging in Section 8, where this is already adopted?

Melanie Oldham said this is an emotional topic. She said some of these apartment complexes have holes in the floors, no water, stoves not working. She said she supports this proposal as long as we do it right.

Councilman Muraira said that he agrees with Ms. Oldham, but we have to make sure we do it right.

Mr. Castillo 1516 N Ave G, said he has a mechanic shop and rental property, he said he pays taxes. Mr. Castillo said he opposes this.

Councilman Pena said he thinks the solution going forward is more affordable housing. He said let's fix the problems but not hinder ourselves.

Councilman Muraira said we need to work on this, we need to make the landlords a part of this process, and keep council involved in any workshops.

Mayor Pro Tem, Cain said we need to speak with the apartment owners, get their input, and may give us a place for negotiation.

Tommy Pearson spoke of the apartment owners, he asked what about the tenants that destroy these units? Mayor Pro Tem, Cain said this protects the owners as well, not just the renters.

Consideration of approving Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC.

Finance Director Cathy Ezell presented to council Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC. She said this is being brought back from the last council meeting with a list of other cities that participate in this pool. She said the bank places requirements on how much money can be kept in the bank.

Councilman Pena asked how many cities are on the list? Ms. Ezell said there are 18.

On a motion by Councilman Pena, seconded by Councilman Muraira, with all voting "Aye" 4-0 Council unanimously approved. Resolution 2021-2724, to Participate in Texas Cooperative Liquid Assets Securities System Trust (Texas Class) an investment pool administered by Public Trust Advisors, LLC.

Consideration and possible action approving a payback schedule for an overpayment in local sales and use taxes.

Finance Director Cathy Ezell presented to council the payback schedule for an overpayment in local sales and use taxes. Ms. Ezell said the City received a letter from the Texas Comptroller saying the city had been over paid in sales tax in the amount of \$423,897.25. Staff recommends that the city enter into a 44-month payback agreement. The amount each month will be \$9,634.00, and the final payment of \$9,635.25.

On a motion by Councilman Muraira to enter into a 44-month payback agreement, seconded by Councilman Pena, with all voting "Aye" 4-0 Council unanimously approved the payback schedule for an overpayment in local sales and use taxes.

Consideration and possible action on agreement with Engie Energy for repayment of credit.

Finance Director Cathy Ezell presented to council an agreement with Engie Energy for repayment of credit. She said that the Engie had a billing mistake that gave the city a \$162,215.86 credit. She said this was a mistake on the power company part, and there should have been no credit. Ms. Ezell said the city can go into a payment agreement for the total amount of \$189,677.56 and it will be spread across five payments. She said, we do owe this money.

Mayor Pro Tem Cain, said he hopes the city has safe guards in place now, to catch these kinds of mistakes.

Councilman Muraira asked how will this be paid, will it be coming out of the fund balance? Ms. Ezell said it will be coming from the fund balance, it is not budgeted. A budget amendment will be presented at a later date.

On a motion by Councilman Pena, for a five-month deferred repayment plan to Engie Energy, seconded by Councilman Cain, with all voting "Aye" 4-0 Council unanimously approved an agreement with Engie Energy for repayment of credit.

Consideration and possible action appointing a TIRZ Board President.

City Manager Tim Kelty presented to the council the possible action of appointing a TIRZ Board President. Mr. Kelty said that EDC Board voted to recommend Jeff Pena as the TIRZ Board President.

On a motion by Councilman Muraira to appoint Jeff Pena as the TIRZ Board President, seconded by Councilman Cain.

Councilman Pena asked if he is allowed to vote? City Attorney Chris Duncan, answered affirmatively.

Mayor Pro Tem Cain called the motion, with a 3-1 vote Jeff Pena was appointed the TIRZ Board President. Councilman Brimage voted "Ney".

Councilman Brimage said "for the record, Jeff voted for himself"? He was told yes.

First Reading and Consideration of Resolution No. 2021-2732 approving economic Development projects to be enacted by the Freeport Economic Development Corporation.

City Manager Tim Kelty read the first read of Resolution No. 2021-2732 approving economic Development projects to be enacted by the Freeport Economic Development Corporation. Mr. Kelty said that this is the first reading of this resolution. He said for the Public and Council's understanding, the three projects that are being proposed are; Local Business Improvement Grants, for \$150,000, a Bridge Lighting project and the development of an Outdoor Market on the 8.8 acres owned by the EDC on Brazos Street. Mr. Kelty explained that the resolution sets not dollar limit to these projects but that EDC had voted to authorize \$25,000 each for the lighting of the Railroad Trestle and Outdoor Market. He said after the second reading and possible action Council can stipulate the dollar amount approved. As it stands it is limited by the \$1.25 million available in the special project line item of the Council approved EDC Budget. He said that there will be no action on this until after the second reading.

Councilman Brimage asked as it is written, if we are giving an open check book for these projects. Is that correct? City Attorney Chris Duncan said the limitation is based on the budget, and the budget was presented to City Council, so this will be limited by whatever the budget amount is. The approval is not specifically for the \$25,000, so the EDC has discretion to spend on the projects whatever is budgeted. Councilman Brimage asked if permission had been given from Union Pacific for lighting on the bridge. Chris Duncan said Union Pacific is evaluating it. Councilman Brimage also asked about selling fresh seafood and he spoke of the licensing that is required. He said, he hopes they respect Mark Frudienburg and Jason who have dedicated 30 plus years to this city, and they are being considered, and this effort wouldn't negatively affect their businesses.

Chris Duncan said he believes Mark was contacted about selling at the outdoor market.

Councilman Pena said the EDC is looking to use the funds to help grow Freeport.

Discussion and possible action regarding Ordinance No. 2021-2648 to require all City Council and Public Board Members to disclose: All current Real Estate Assets in Brazoria County held in their personal name, immediate family's name, business name. All Business Entities owned or partnered in Texas. Any and all business agreements with any other Board or Council member. Any and all agreements or contracts with the city.

Councilman Brimage asked City Attorney Chris Duncan if this ordinance is legal, and enforceable? Mr. Duncan said, "yes, he believes the ordinance is legal". Councilman Brimage said he has contacted several attorneys, including TML, and was told it is not legal or enforceable. Councilman Brimage asked Mr. Duncan if he had contacted TML? Mr. Duncan said "no". Councilman Brimage asked about the time, and cost of getting the ordinance prepared, and requested the hours that was billed to the city to prepare this ordinance. City Attorney Chris Duncan said he can get this information.

Councilman Brimage said that he wants this item tabled, until Mr. Duncan finds out from TML if this is enforceable.

Councilman Cain said he agreed with Councilman Brimage, when he first read the ordinance, that this is no one's business. But, he said, Councilman Pena put this on the agenda to try and clear his name, and promote transparency among the council, and this could actually help the next council that serves, as well as any one of us. Councilman Brimage said his concern is, what this will do to the other boards.

Mayor Pro Tem, Jerry Cain tabled this item.

Councilman Pena said he has taken an informal vote with the EDC and Planning, and no one opposes this.

Discussion and Possible Action to revise the Agenda Policy for Council.

Councilman Brimage said this was brought before council, and was passed, and it is back on the agenda again.

Councilman Pena presented to council the possible action to revise the agenda policy for council. He said just like the mechanical shop ordinance, this one needs some fixing. Councilman Pena said the city council agenda needs to be provided to council, by the first Friday, before the next meeting. He said, if council want to add an item to the agenda, that needs to be done Wednesday before the meeting, and must be done by noon. He said this will allow more participation by council members.

Councilman Pena made a motion that a draft agenda be given to council, the first Friday after council meets, with Wednesday at noon being the deadline to add to the agenda, motion was seconded by Councilman Muraira. With discussion that followed.

Councilman Brimage said he would like to hear input from staff, to see if this is too much pressure on them.

City Manager Tim Kelty said there is nothing that prevents council from bringing things forward to be placed on the city council agenda. He said you do not have to wait for the deadline to submit. As far as requesting the agenda, staff can send out draft agendas and has done so in the past to Councilmen Pena and Muraira. But the agenda is fluid. He said if you want something on the agenda, email staff. Mr. Kelty said agendas are available upon request. Councilman Cain said he has an issue with the Friday

deadline, the reason being is this agenda had nine revisions. He said, his suggestion is; if a councilman wants a copy of the agenda, send an email and request it. Councilman Pena said the purpose for this is we represent our Ward. He said the voices that matters, are the council. He said that council should be involved. Councilman Muraira said he agrees that the agenda needs to be sent out to council.

Mayor Pro Tem, Jerry Cain called the motion for a vote. With a 2-2 vote, the motion did not pass. Councilmen Pena and Muraira voted "Aye". Councilman Brimage and Mayor Pro Tem, Cain voted "Ney".

WORK SESSION:

Fire Chief Motley said that COVID cases are on the rise. He reminded us to practice good hygiene and to social distance. He said that the Hurricane Nicholas debris site is clean, all the debris has been removed.

Public Works Director Lance Petty gave an update on the soccer field lights. He said he met with CenterPoint and the soccer field lights themselves are three phase, 380 volt. He said the storm took out all the power to the school, and the school is not going to put the power back. Mr. Petty said the only way to power the lights on the field is go to the closest pole, which is down 2nd Street. He said this is the closest three phase power that CenterPoint has. For CenterPoint to drop a line here, will be \$10,000 and we would provide all the other wiring. Then the estimated cost to an electrician will be around \$140,000. He said we can do single phase at Cherry Street, but this will only power up the concession and restrooms. Mr. Petty said the palm trees at the entrance of Freeport, and the ones at the golf course, have died because of the freeze. He said that staff will be coming to council, to get approval of getting new palms for the entrance and the golf course. He and Mr. Kelty said the 2021 asphalt paving has been completed, as well as the beach entrance and golf course maintenance road. There was discussion on the basketball program, Mr. Kelty said the city waived the fees this season.

Councilman Pena said the vote by the EDC Board was unanimous, on appointing himself as the TRIZ President. He spoke of workshops, and the importance of having at least two councilmen in attendance. Councilman Pena asked, what is the budget for infrastructure? Ms. Ezell said \$6-7 Million. He said that he has talked about a newsletter of what infrastructure is being scheduled, and when the work is to be done. He said he will continue to bring this up until it is done. Councilman Pena said we need to promote what council is doing. He asked about the mask mandates, and if this will be enforced again? He was told the Governor has prohibited cities from adopting mask mandates. Councilman Pena spoke on the boil water notices, he said that council needs to be made aware of these notices, and then put them on the social media. He spoke on customer service, he said the feedback he got on the basketball issues, there was no customer service. Councilman Pena asked if there is an ordinance for boarded up windows? He said we need to get the buildings in downtown, to clean up the boarded-up windows? Councilman Pena said that he would like an update on the CenterPoint lights.

Councilman Muraira told Mr. Petty that he would like to meet with him, and Mr. Montoya to discuss the plans of the soccer fields. Councilman Muraira asked Mr. Kelty to check into livestream for the city councilman meetings. He said we need to be as transparent as we can. Councilman Muraira said that he would like to see either Facebook Live, or YouTube Live. He said that he would like to be informed more of the important matters that is going on.

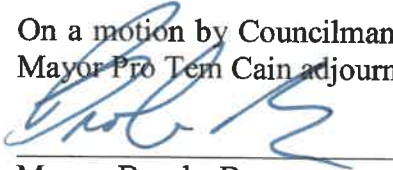
Councilman Brimage spoke on the boarded-up windows in downtown. He asked Councilman Pena "you want the government to tell the owners of these buildings to remove the wood from their windows". "But yet you put the mechanic shop ordinance on the agenda to repeal it", this ordinance would have helped

clean up these blighted areas. Councilman Brimage said help me understand the difference, between the downtown blight and the blight throughout the city.

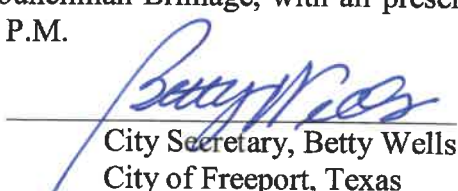
Mayor Pro Tem Cain, wished everyone a happy and safe holiday.

Adjourn

On a motion by Councilman Pena, seconded by Councilman Brimage, with all present voting "Aye", Mayor Pro Tem Cain adjourned the meeting at 8:59 P.M.



Mayor, Brooks Bass
City of Freeport, Texas



City Secretary, Betty Wells
City of Freeport, Texas