

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, December 19, 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

Staff: Tim Kelty, City Manager
Lance Petty, Assistant City Manager/PWD
Betty Wells, City Secretary
Clarisa Molina, Administrative Assistant
David Olson, Interim City Attorney
Cathy Ezell, Finance Director
Toby Cohen, IT Manager
Jennifer Howell, Freeport Police Chief
Donna Fisher, Human Resource Director
Laura Cramer, GIS & Special Projects Coordinator
Kacey Roman, Building Official
Robert Johnson, EDC Director
Chris Motley, Fire Chief

Visitors: George Matamoros Karla Clark
Sam Reyna Joe Penfield
Kenny Hayes Pam Dancy
Ruby Marshall Shonda Marshall
Tom Pearson Ben Kelty
Alma Kelty Kent Holle (Facts)

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, Pledge was led by Mayor Bass.

CITIZENS' COMMENTS:

Karla Clark spoke of her concerns of the water outage in the Bridge Harbor area. She said there needs to be more notice to the residents, and the businesses in this area. She said the Everbridge sent out two notices. She spoke of the Planning and Zoning agenda she was emailed. She said the agenda was changed. She said the information that was given, is not the same that was presented at the meeting.

Pam Dancy spoke to council of her concern of the Open Meetings Act that are not being taken care of properly. She said she wants to talk about the meeting on the 12th. She said Mr. Olson made the comments that were picked up on a mic, about two councilmen who were late. She said this community comes together during hard times. Ms. Dancy said Ms. Wells and Mr. Kelty are not allowed in Executive Session, per the Open Meeting Acts.

Tom Pearson spoke of the obstruction on Ave. A and Brazosport Boulevard. Mr. Pearson said when you pull to the light, you cannot see anything because of the bushes.

Jeff Pena spoke to council as a citizen. He said he remains committed to working hard for the citizens of Freeport. He said he wants to announce he will be running for re-election in 2023. He spoke of an ongoing campaign by the City Manager, and supported by Mayor Bass to injure him politically. Mr. Pena asked that the Executive Session item “accusing a Councilman of Creating Hostile Workplace” be moved to the Regular Session as the first item.

Shonda Marshall spoke to council of the new website for the Freeport EDC.

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

Presentation of Employee of the Month for the Month of October 2022.

Mr. Kelty presented the employee of the month to Kris Vierra, for the month of October 2022.

Presentation of the Annual Storm Water Report.

Laura Cramer, GIS Special Projects Coordinator, presented to council the Annual Storm Water Report.

Police Chief Howell introduced the new Patrol Officers and the new ACO to Council.

CONSENT AGENDA

Consideration and possible action on the approval of City Council meeting minutes from November 21, and December 12, 2022.

Consideration and possible action approving date change for the first and second City Council Meetings in January 2023, due to the New Years and Marin Luther King, Jr. Holidays.

Second reading, Consideration and possible action on Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program.

Councilman Pena asked that item #5 be pulled from Consent Agenda.

A motion was made to approve the consent agenda item #'s 3 & 4 by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved the Consent Agenda, items # 3 & 4.

COUNCIL REGULAR AGENDA

Second reading, Consideration and possible action on Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program

Councilman Pena asked Freeport EDC Director Robert Johnson, what the budget is for the Grant Program? Mr. Johnson said it is \$150,000. Councilman Pena asked if this amount should be expanded? Councilman Cain the Liaison for the EDC said his opinion, \$150,000 is a good goal, and should we need to expand then we can do a budget amendment.

A motion was made to approve Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant.

Consideration and possible action regarding the report of Charter Review Commission recommendations to place items on Charter Review Election Ordinance.

Karla Clark spoke to council about the Charter recommendations that will be voted on in May.

Sam Reyna spoke on the recommendation made by the Charter Review Board, for the 180 days for a recall petition instead of the 45 days that is now allowed per the Charter.

Pam Dancy spoke on the recommendations for the Charter, she asked about the Sections and how they will follow the State Law.

Mayor Bass said there are 16 proposed questions to possibly be placed on the Charter Ballot in May of 2023. Mayor Bass read each of the proposed questions, and there was discussion on each of the questions. Direction was given to City Attorney so the item could be brought back for action in January.

No action was taken on this item.

Consideration and possible action approving contract with the Brazoria County SPCA.

City Manager presented to Council the possible action approving the contract with the Brazoria County SPCA. He said the current contract will expire February 2023, and the agreement being presented will extend the current agreement until September 2024.

Pam Dancy asked what will happen after this contract ends? Mayor Bass said as a council we will have to make some big decisions of where we go from here.

A motion was made to approve the contract with the Brazoria County SPCA, by Councilman Pena, seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved contract with the Brazoria County SPCA.

Consideration and possible action on the purchase of two new vehicles for the Freeport Police Department.

Police Chief, Jennifer Howell presented to council the possible action to approve the purchase of two new vehicles for the Freeport Police Department. She said this is a budgeted item. Chief Howell said these units will be fully fitted.

A motion was made to approve the purchase of two new vehicles for the Freeport Police Department, by Councilman Cain, seconded by Councilman Pena. With all present voting "Aye" 4-0 council unanimously approved the purchase of two new vehicles for the Freeport Police Department.

Consideration and possible action on awarding contract for road improvements in Freeport Community House Park.

Assistant City Manager, Lance Petty presented to council the possible action on awarding contract for road improvements in Freeport Community House Park. He said this has been amended to improve the visibility issues and the safety of the citizens and children that utilize the playground on the North Side of the levee. The cost of this project is \$42,667.90. He said this excludes the widening of the Eastern Entry Road at the T-Dock.

A motion was made awarding contract for road improvements in Freeport Community House Park by Councilman Cain, seconded by Mayor Bass. With discussion that followed.

Councilman Cain said this is a safety issue, and it is important we get this done.

Councilman Muraira asked if we can table this and add the levee walk trail? Mayor Bass said we will have to wait for three months. Councilman Muraira said he would like to use as much of the \$150,000 allocated for this.

Councilman Pena said he would like to see the levee jog trail added to this. He said it will add safety to drivers and the joggers.

Councilman Cain said he would like to see the vote pass for the safety of the children.

Mayor Bass called the motion for a vote, with a 2-2 vote, motion fails. Mayor Bass and Councilman Cain voted "Aye" Councilmen Pena and Muraira voted "Ney."

Consideration and possible action on approving the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract.

IT Manager Toby Cohen presented to council the possible action approving the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract. He said the cost of the contract is \$124,439.39 this will include software, and help the city to become more paperless system. All documents will be scanned and stored on the cloud.

A motion was made to approve the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract, by Councilman Cain, seconded by Councilman Pena.

Karla Clark asked if the documents will be boxed up and removed from City Hall. Mr. Kelty said yes, the company is licensed and bonded to do this.

There was discussion by council.

Mayor Bass called the motion to a vote, with all present voting “Aye” 4-0 council unanimously approved the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract.

Consideration and possible action approving a Copier Contract for City offices.

IT Manager Toby Cohen, presented to council the possible action of approving a Copier Contract with Platinum Copier Solutions, for City Offices. He said this will save the City approximately \$55,000 over 63-month contract. Mr. Cohen said this does include maintenance. Mr. Cohen said we are replacing existing copiers, and adding one.

A motion was made to approve the Copier Contract for City Offices, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Copier Contract with Platinum Copier Solutions for City Offices.

Consideration and possible action to approve the Windstorm Insurance Policy Renewal.

Finance Director, Cathy Ezell presented to council the approval of the Windstorm Insurance Policy Renewal. She said the policy will expire January 6, 2023. Ms. Ezell said we have to replace the windows at the library, and the roof on the museum before we can get coverage on these buildings.

A motion was made to approve the renewal of the Windstorm Insurance Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved the renewal of the Windstorm Insurance Policy.

Consideration and possible action approving a Resolution No. 2022-2772, amending the Financial Management Policy.

Finance Director, Cathy Ezell presented to council Resolution No. 2022-2772, amending the Financial Management Policy. She said this is a requirement to be changed to meet Federal and State guidelines for applying for Grants. She said the City does the required changes now, but this must be in writing.

A motion was made to approve Resolution No. 2022-2772, amending the Financial Management Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Resolution No. 2022-2772, amending the Financial Management Policy.

Consideration and possible action approving a Resolution No. 2022-2773, amending the Purchasing Policy

Finance Director, Cathy Ezell presented to council Resolution No. 2022-2773, amending the Purchasing Policy. Ms. Ezell said this is also a requirement to be changed to update the Federal Procurement policy, to be compliant with all Federal and State requirements in order to apply for this Grant.

A motion was made to approve Resolution No. 2022-2773, amending the Purchasing Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Resolution No. 2022-2773, amending the Purchasing Policy.

Consideration and possible action approving Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022.

Finance Director Cathy Ezell presented to council Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022. Ms. Ezell said this is the final Budget Amendment for FY 2021/2022. She said this is for all year end budget overages.

A motion was made to approve Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022, by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022.

Consideration and possible action approving Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023.

Finance Director Cathy Ezell presented Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023. She said this proposed Budget Amendment is the first of the year. She said it is to roll the funds for the projects that were not completed in the last FY 2021/2022.

A motion was made to approve Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023, by Councilman Cain, seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved Ordinance No. Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023.

WORK SESSION:

Councilman Pena thanked all that have come out to council. He wished all Happy Holidays, and congratulated the new Officers that were recognized tonight. Councilman Pena asked about Officer Stone who was injured. Chief Howell said he is well and back on duty. He thanked the Museum for putting on great Market Event. He thanked the Parks Department for all the lights that were put up, on 288 and Brazosport. He also said he wants to make known the lights that were placed on 2nd, Park, Broad and Memorial Park are not working at all.

Councilman Cain wished everyone a Merry Christmas, and a safe New Year.

Councilman Muraira asked about the 8th Street re-work. Mr. Petty said the engineers approved a grinding machine for the contractor to use. He said the surface has be grinded down and is complete. Councilman Muraira said it is smooth, and it is good work. Councilman Muraira asked if there is an update on the lighting plan? Mr. Kelty said we are waiting on the correct map from Centerpoint. He said once the approved plan is sent, they will begin the work. Councilman Muraira said the trash service will remain the same through the holidays. Councilman Muraira asked Mayor Bass if there is a Strategic Plan we are following? He said elections are coming up, and asked if there is anything in particular that the Mayor knows more about, than he does? As far as what direction the City of Freeport is going. Mayor Bass said we had the Strategic Planning retreat that each Councilman and the Mayor could put forth what they thought were important for the City of Freeport, and it translated from the Strategic Plan, into a Budget. He said we want to fulfill our commitment to our citizens, to our infrastructure. Mayor Bass said he hopes we work together as council for our citizens. Councilman Muraira said he thinks that he and Mayor Bass should have more conversations, without violating any rules. Councilman Muraira asked about the Alley on 6th and 7th so the water can flow. Mr. Petty said the asphalt was laid wrong on the elevation. Mr. Petty said we did a soft cut and we will get it repaved so the water will flow.

City Manager Tim Kelty said there will be warming shelter at the Rec Center for the cold weather that will be coming in on Thursday and Friday. He said we are on track to advertise for bids for the Sanitary Sewer Collection for the Grant Project. He said in January we will be bringing the Golf Course Club House for discussion. Mr. Kelty said council authorized the preliminary architectural work. He said we have the cost estimates, and we have been talking with Financial Advisor and Bond Counsel. He said council will have to decide if we move forward with a Bond Election, for this project. Mr. Kelty said we are working with TxDot for a Grant for sidewalks, and for shelter for the Transits Bus System. Mr. Kelty announced that in January we will be providing for Council Members a tablet for council meetings. He also recognized the Public Works Department for the work that was done for Holiday on the Brazos.

Councilman Pena spoke of the monitoring of the drug activity downtown alleyways. He thanked the Parks Department for cleaning out the alley. He requested that there be continued patrol out in this area.

Mayor Bass said he has a statement to a comment made by Mr. Pena in citizens comments. Mayor Bass said Mr. Pena said “I, Mayor Bass have a political motivation to get him. To censure him”. Mayor Bass said he has no political motivation, he is not seeking re-election. He expects people to be responsible to their own words and their own actions.

Update on reports / concerns from Department heads

CLOSED SESSION:

Open Session was closed at 8:29 PM.

Executive Session was closed at 8:33PM.

Councilman Pena made a motion to exclude Mr. Kelty and Ms. Wells in Executive Session, seconded by Councilman Muraira. Mayor Bass and Councilman Cain voted “Ney”.

An amended motion by Councilman Pena to invite Mr. Kelty and Ms. Wells into Executive Session, seconded by Councilman Muraira. With a 2-2 vote motion fails.

Open Session was closed at 8:36 PM.

Executive Session was closed at 9:46 PM.

No action was taken from Executive Session.

Open Session 9:46 PM

(Personnel Matters) Complaint asserting a Hostile Workplace regarding comments made by a Councilman to a city employee.

Mayor Bass introduced the item. Councilman Pena made a motion for the City Attorney to facilitate the process on this item, because he feels Mayor Bass has been biased. Motion was seconded by Councilman Muraira. City Attorney David Olson said he is willing to do so if the majority of Council wants me to preside over it I will, but it will be very unusual for the lawyer to act in that role. With a 2-2 vote, the motion failed. Mayor Bass and Councilman Cain voted “Ney”. Councilmen Muraira and Pena voted “Aye”.

Mayor Bass said the complaint is from an employee, against a sitting councilmember and is something that should be taken very seriously. He said this was originally slated for Executive Session, but at the request of Councilman Pena, who the complaint was about, this discussion will be held in Open Session, which is his right. The complaint alleged actions by Councilman Pena created hostile work environment. Mayor Bass said that portions of the comments were on video and audio, and portions were witnessed by me and Councilman Muraira.

Mayor Bass read the complaint, and provided it as a Public Record.

Mayor Bass asked Councilman Muraira if he saw Ms. Wells crying? Councilman Muraira said “he will not participate in this political game of yours”.

Mayor Bass invited Ms. Wells to make a statement. Ms. Wells said “I am not one to file a complaint, and hate chaos. Ms. Wells told Councilman Pena you know how you spoke to me, you know how you talked to me, and you know you called my work half-assed. You called me a liar on your way out the door. Ms. Wells told Councilman Muraira, you told me you were sorry for how Councilman Pena talked to me, that he had no right, and you were going to talk with him. I have been an employee for 17 years, and I have never had to deal with anything like this. I’m shocked, I’m hurt, I’m embarrassed and I’m angry. Ms. Wells said something has to be done, this has to stop, his intimidation and inconsideration to employees.

Councilman Pena criticized the Mayor for his facilitation saying he was putting the City at legal risk.

Mayor Bass asked Ms. Wells to detail the circumstances around the complaint. Ms. Wells explained that Councilman Pena got flustered when he couldn’t find pages in his packet, because he had got them out of order. Councilman Pena interjected that the video will show that he was asking for parts of the packet that were not included in the packet he was given, Ms. Wells said she can guarantee he receives the same packet as everyone, I don’t go into your packet and take paper out.

Councilman Muraira said that he did witness the event take place, but he feels this could have been taken care of in house. He said that he does not feel this should be brought out into the public. Mayor Bass said, Councilman Pena is the one who asked that it be brought to Open Session.

Councilman Cain said he was leaving when all of this started. He said as he was leaving, he thought they were joking about the binder as well. He said as he got outside council chambers, he noticed voices were rising. He poked his head back in and said the mics are still on. At this point they killed the mics.

Mayor Bass said he was signing documents at the end of the meeting, I heard some back and forth and I thought it was joking as well. He said, what caught his attention is when he heard a cuss word. This is when he looked and saw Betty’s face. It looked distraught, it looked sad, and there were tears coming down. Mayor Bass said he also saw Mr. Matamoros standing nearby.

Councilman Pena said that he takes pride in his position as a volunteer, as an elected official for City Council for City of Freeport, for Ward A and all of Freeport. Councilman Pena recommended that we replay the video, not from just the meeting from the November 7th, but for all meetings. And see, the Mayor and other Councilman be completely outlandish, completely disruptive. He said remember what his composure was at these times. He said he wants to make sure we are not mischaracterizing based on the verbal account, of Ms. Betty Wells and Mayor Bass.

Councilman Pena asked Ms. Wells, to confirm that she made allegations against him creating a hostile workplace. He asked her to confirm the actions that were said, this was explained earlier in the meeting. He asked her to confirm that she prepares the binders for every meeting. She confirmed the answer to these questions as being yes. He asked if other councilmembers have papers that he doesn't, would she be responsible, and would it be fair to ask about that. Councilman Pena said he has made it known that he has documents missing from his binder. That he borrows the documents from Mr. Kelty, or from Councilmembers. He said that the only Councilman missing documents is him. Councilman Pena asked Ms. Wells, isn't it reasonable that I ask for a complete agenda meeting packet that you provide to other Councilmen?

Ms. Wells responded that the packet she was holding is the original packet. It gets scanned and copied. Every binder is made off of this, including yours Councilman Pena. I think what happens is Councilman Pena gets flustered. You get turned around and you get your stuff mixed up.

Councilman Pena asked Ms. Wells about the video from November 7 meeting. He stated as the City Secretary you are a Corporate Secretary and Public Official, responsible for making and preserving records of the City. The conversation that took place was recorded, on Facebook Live, so we don't have to take anyone's word as to what was said. Except the audio was cutoff during our conversation, yet the live feed was not. Councilman Pena accused Ms. Wells of editing the audio of Facebook Live. Mr. Olson said take a step back that the recording visual and audio is only for the time the meeting is in session.

Councilman Pena said he has been informed that Ms. Wells is intending to sue the City for a hostile workplace. Councilman Pena asked Ms. Wells who the hostile workplace language came from that was included on the agenda. Mr. Kelty said he was responsible for including that language in Executive Session, based on the complaint letter received. Executive Session language was sent to Mr. Olson who made final edits and approved.

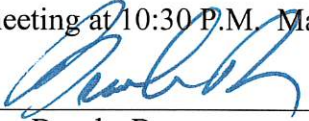
Councilman Pena asked Mr. Olson if he advised Ms. Wells, or Mr. Kelty or the Mayor that they should not use hostile workplace on the Agenda. Mr. Olson said no. Councilman Pena asked Mr. Olson if he approved the language for the agenda? Mr. Olson said yes. Councilman Pena said the legal definition of hostile workplace refers to discrimination, based on race, gender, religion, etc., and at no time did any of these qualify deemed as hostile workplace. So why was it allowed to be placed on the agenda? Mr. Olson said he consulted with their labor employment division and the allegations would constitute the elements of a hostile workplace. Mr. Olson said I have absolutely no problem with the way it was worded on the agenda. Councilman Pena alleged the language was put on the agenda to help Betty make a legal claim against the City. And person that allowed or sanctioned it, is working against the interest of the city.

Councilman Pena said this is nothing more that a smear campaign and an attempt to disparage my name, reputation in hopes to discourage people from voting for me. Councilman Pena asked why we put the city in legal jeopardy by putting hostile workplace on the agenda. Councilman Pena said this is just a big circus act. This is not what we are suppose to be doing. We are supposed to paving streets, building parks, helping families live better lives in Freeport. Now I am having to defend myself against personal attacks, because people don't like that I ask questions for transparency, and ask question about balanced budgets, or faulty contracts that the city was involved in, that we had to do investigations for. He said this is a big attempt for me to be silenced and discredited. He said they are going to put a little tinge on my reputation by censuring me. He said a censure is simply a hand slap, that you did bad. He said there is so much more going on here, to take this item and try an legitimize it and make a mountain out of a molehill, to potentially make a harmful lawsuit against the city by Ms. Wells is irresponsible.

Councilman Pena said look at the video and you will see the language and the posture and my temperament. He said don't mistake my insistence on being heard, as me being hostile. I am just fighting for my good name.

Adjourn

On a motion by Councilman Pena, seconded by Councilman Cain, with 3-1 vote, Mayor Bass adjourned the meeting at 10:30 P.M. Mayor Bass voted "Ney"



Mayor, Brooks Bass
City of Freeport, Texas



City Secretary, Betty Wells
City of Freeport, Texas