

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, January 9, 2023 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
Ana Silbas, Main Street Coordinator
Kacey Roman, Building Official
Chris Motley, Fire Chief
Brian Dybala, Golf Course Director

Visitors:

George Matamoros	Karla Clark
Sam Reyna	Joe Penfield
Pam Dancy	Bob Casale
Shonda Marshall	Desiree Pearson
Tom Pearson	Ben Kelty
Alma Kelty	Kent Holle (Facts)
Manning Rollerson	GiGi Canard
Melanie Oldham	Ron Bachman
Mark Parker	Con McCleester
Diane McCleester	Gina Adams
Robert Bacon	Billy Toomer
Margaret Bachman	Carol Parker
Stephanie Bass	Gail Bass Durbin

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:

Mr. Kelty announced there is a break to a major transmission from BWA that feeds all the member cities. He said BWA expects to have the repair by 9:30 this evening. He said the pressure did drop below TCEQ required 20 pounds/psi. BWA issued a boil water notice. However, prior to the pressure dropping the City stopped taking water from BWA and are taking from stored supplies. We need everyone to conserve water, and we should remain sufficient. If we have to issue a boil notice, we will notify citizens through our Everbridge Service and social media.

Mayor Bass announced he has consulted with Legal Counsel, and the Comments from the public will be limited to a total of 4 minutes for each citizen for the entire meeting.

George Matamoros said he wants to comment on the harassment and hostile behavior by Jeff Pena, towards City Employee Betty Wells. Mr. Matamoros said he was present when Jeff Pena made the harassing comments, to Ms. Wells on November 7, 2022. The comments she stated in her complaint letter is what I witnessed. He said what he heard from Jeff was appalling and does in his opinion constitute hostility. Mr. Matamoros commented on Mr. Muraira witnessing this and apologizing to Ms. Wells for Jeff.

Robert Bacon spoke of his concern of the lack of communication for the road construction on 10th Street. He said he would like to be notified if their temporary driveways will be removed. He said he should not have to park his truck elsewhere.

Pam Dancy thanked the PD for the Christmas for the kids and she enjoyed the door decorations. She spoke of the last City Council meeting. She said Councilman Brimage owes the City over \$200,000. She said everyone needs to apologize to one another. Ms. Dancy said Mr. Olson owes her and council an apology for his funnies and intimidating her.

Jeff Pena said don't read the local gossip feed from the Facts newspaper, instead come to the meetings or watch the live on Facebook. He said he was elected to do a job and council cannot do this if we have no accountability at City Hall. He said don't be fooled Freeport, tonight's meeting with the censures is about one thing. He spoke of the water issues, and the sewer problems. He said in his everyday walk of life, he does not intend to hurt anyone. He said this means he did not intend to offend Ms. Wells. He cannot allow these smear campaigns to go unchecked without the truth.

Karla Clark passed out information to council about the water going into Surfside. She said it has been this way for a few months. She said there is a lot of leaking going on. She asked who is responsible for this. She asked who will do the inspections, Mr. Kelty said it is a Surfside project. She said her next issue is the posting for the Special Election, she said the date is wrong, it should be Wednesday February 8th for early voting to begin, but the website, says Monday February 8. She says this needs to be fixed. She spoke of the calendar on the website, and said the dates for council are incorrect.

Manning Rollerson said he elected Jeff Pena. He also spoke of the Juneteenth Holiday and a City Council meeting being held. He said this is all embarrassing. He said this agenda is just throwing rocks at each other. Mr. Rollerson talked about a leak which he called about on January 3, 2023 for which the fire department never showed up. He said both Chiefs lied to him. He spoke of everyone lying and backstabbing. He said he is suing the City for violations of the Civil Rights Act.

Sam Reyna said when this City Council was first elected he thought it was a solid body that would offer sound advice, and offer good ideas on infrastructure and economic problems. He spoke of the bad decisions that have been made and he feels most of the bad decisions are by the City Manager, he said the City Manager Tim Kelty needs to be let go. He spoke of the population and businesses that have been lost in the City. Mr. Reyna said the Building Official and Waste Disposal have been the largest part of the problem. Mr. Reyna spoke on the Special Meeting agenda for the possible censure on Mayor Bass, Councilman Cain, Mr. Kelty and Betty Wells. Mr. Reyna told Councilmen Muraira and Pena, "Ms. Betty Wells is a keeper, she stays". "She is not going anywhere".

Desiree Pearson spoke of her concern for political signs being placed in the ROW.

Tom Pearson thanked Mr. Kelty and Lance Petty for taking care of the view obstruction on Ave A and Brazosport Blvd. He said it looks good.

Mark Parker, Bridge Harbor said to council, you took office because you believed in yourself and this City. Mr. Parker commented on Chris with the Fire Department, he said he has done an absolute fantastic job. He hopes the thing with the golf course goes forward. He said there are a lot of good things here, and there has been a lot of things being done in the City. He said Ms. Wells, great job. There needs to be some positivity. He said all these allegations need to be dropped and move on.

Melanie Oldham said she has been watching the Facebook Live. She spoke of all the negativity going on, and how the positive has been clouded. She said she has been so disrespected by Councilman Pena. She said, he has attacked her on social media. She said he called her ignorant, and said she is a failed politician, and that she should never serve on a board again. Ms. Oldham said, Betty is a good woman and she appreciates her coming forward. She spoke of the EDC Administrator Kaytee Ellis, and a phone conversation with Mr. Pena, Ms. Oldham said I have never heard such language.

Cathy Ezell, Finance Director read a letter to Mayor Bass, dated July 2022. The letter outlined the disappointment and concern from City staff regarding the behavior of Councilman Pena and the negative comments being posted on social media, and how it makes staff's job of serving the public more difficult. She said Councilman Pena continues to direct City Staff which is a violation of the City Charter. She said Councilmen Pena and Muraira continue to pressure staff to do things which are not in accordance with City Policies.

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

Presentation for the possible Special Bond Election to be held on May 6, 2023.

City Manager Tim Kelty, presented to council the possible Special Bond Election to be held on May 6, 2023. He said about a year and half ago during the Strategic Planning meeting, a councilman brought up the idea, of reconstructing the clubhouse at the Freeport Golf Course. Council approved the preliminary architectural design developed. Mr. Kelty showed the plans of the possible clubhouse. Mr. Kelty said the architectural estimate for the clubhouse and the cart barn project is \$3,084,155. He said Jonathan

8th for early voting to begin, but the website, says Monday February 8. She says this needs to be fixed. She spoke of the calendar on the website, and said the dates for council are incorrect.

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architectural design developed. Mr. Kelty showed the plans of the possible clubhouse. Mr. Kelty said the architectural estimate for the clubhouse and the cart barn project is \$3,084,155. He said Jonathan Frels is our Bond Counsel, and Financial advisor is Chase Eastland, with Masterson Advisors. Mr. Kelty said with these cost estimates, the approximate cost to the city residents per household, will be \$29.00 a year.

Mayor Bass said, if this is approved it will be out for the residents of Freeport to vote on? Mr. Kelty said yes.

Mr. Dybala spoke of anticipated revenue. Mayor Bass asked if we could possibly reduce the scope of work? Mr. Dybala said yes.

There was a lengthy discussion by council.

Mr. Kelty asked for direction from Council.

Councilman Muraira said he opposes the bond.

Councilman Pena said he did not care for the current design and asked if we could consider different design. He said Council would need to see that before considering the bond.

Councilman Cain asked if we are able to get another drawing? Mr. Kelty said yes, we will work on it.

CONSENT AGENDA

Consideration and possible action on the approval of City Council meeting minutes from January 9, 2023.

Consideration and possible action approving the road closures for the Mardi Gras event on February 18, 2023 12:00 PM-5:00 PM Downtown.

A motion was made to approve the consent agenda item #2, City Council meeting minutes from January 9, 2023 by Councilman Cain, seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved the City Council meeting minutes from January 9, 2023.

COUNCIL REGULAR AGENDA

Consideration and possible action approving the road closures for the Mardi Gras event on February 18, 2023 12:00 PM-5:00 PM Downtown.

Assistant City Manager, Lance Petty spoke to council of the road closure time for the Mardi Gras event on February 18, 2023. The road closure downtown will be from 9 AM-6 PM, and for the parade from 11:30 AM-12:30 PM. The event will be from 12 PM- 5PM.

A motion was made by Councilman Cain to amend and approve the road closure time for the Mardi Gras event on February 18, 2023, the road closure will be from 9 AM-6 PM downtown and for the parade from 11:30 AM to 12:30 PM. Seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved the road closure.

Public Hearing: Public Hearing on Consideration and Possible Action on Ordinance 2022-2682, Amending the City of Freeport Zoning Ordinance by amending Section 155.901(E)(3) EFFECT OF DESTRUCTION to except residential structures permitted in the Downtown District from this provision.

Mayor Bass opened the Public Hearing at 7:12 PM

City Manager Tim Kelty presented to council Ordinance 2022-2682, Amending the City of Freeport Zoning Ordinance by amending Section 155.901(E)(3) EFFECT OF DESTRUCTION to except existing residential structures permitted in the Downtown District from this provision. He said one issue related to the discussion of downtown residential use that has been discussed over the last couple months is of reconstruction of existing residential downtown if destroyed. The ordinance proposed will protect those properties if this happens. Notice has been sent to all the property owners this may affect, as well as being published in the newspaper.

Joe Penfield said there are two separate issues. One is an economic development issue, and planning issues. He said this issue here, is a moral issue. He said I think we all agree, it is not right to force anyone out of their home. He said this corrects an unjust zoning.

Mayor Bass closed the Public Hearing at 7:16 PM

A motion was made by Councilman Cain to approve Ordinance 2022-2682, Amending the City of Freeport Zoning Ordinance by amending Section 155.901(E)(3) EFFECT OF DESTRUCTION to except residential structures permitted in the Downtown District from this provision. Seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved Ordinance No. 2022-2682.

Public Hearing: Public Hearing on a request for Replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas.

Mayor Bass opened the Public Hearing at 7:16 PM

Building Official Kacey Roman presented to council a replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas. Ms. Roman said this was presented to Planning and Zoning and they approved this replat.

Mayor Bass closed the Public Hearing at 7:18 PM

A motion was made by Councilman Muraira, to approve a replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas. Seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved replat of God's Grace Subdivision.

Public Hearing: Public Hearing Request for replat of Seaside Estates of Follett's Island TX a 10 Lot Subdivision of 25.979 Acres Composed of Tracts 5 through 11 of the unrecorded Subdivision of 70.15 acres conveyed to Nelms Development LLC in County Clerk's File 2021061111 of the Brazoria County Official Records situated in the Stephen F. Austin Peninsula League Abstract 29 City of Freeport Brazoria County, Texas

Mayor Bass opened the Public Hearing at 7:18 PM.

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Mayor Bass closed the Public Hearing at 7:19.

A motion was made by Councilman Cain to approve a replat of Seaside Estates of Follett's Island TX a 10 Lot Subdivision of 25.979 Acres Composed of Tracts 5 through 11 of the unrecorded Subdivision of 70.15 acres conveyed to Nelms Development LLC in County Clerk's File 2021061111 of the Brazoria County Official Records situated in the Stephen F. Austin Peninsula League Abstract 29 City of Freeport Brazoria County, Texas. Seconded by Councilman Pena. With discussion that followed.

Councilman Muraira asked if there is an action needed on these items? Mr. Olson said this is fine to go ahead and approve and we will place in Consent on the next agenda for approval as an action item.

Mayor Bass called the motion, with all present voting "Aye" 4-0 council unanimously approved replat of Seaside Estates of Follett's Island TX.

Consideration and possible action approving the Joint Contract with Brazoria County Elections for the Special Election for Ward D on February 25, 2023.

City Manager Tim Kelty presented to council the possible action approving the Joint Contract with Brazoria County Elections for the Special Election for Ward D on February 2023. Staff recommends the approval of this contract, it will cost about \$15,000 and an additional \$15,000 if a run-off election if one is needed.

A motion was made to approve Joint Contract with Brazoria County Elections for the Special Election for Ward D on February 2023 by Councilman Cain. Seconded by Councilman Pena. With all present voting "Aye" 4-0 council unanimously approved the Joint Contract with Brazoria County Elections for the Special Election for Ward D on February 2023.

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

City Attorney, David Olson, presented to council possible action regarding the report of Charter Review Commission recommendations to place items on Charter Review Election Ordinance. He said the Commission has already made their recommendations, and council has weighed in on what they want. He said he will prepare a Special Election ordinance, this will outline all the charter review provisions and all the sections this will affect. Mr. Olson said it will be presented to the Charter Commission one more time. And will be brought back to Council and you will have a chance to consider.

Mr. Kelty said the individual items are listed as originally proposed. The redline Charter prepared by David Olson has been posted on our website and was sent out to Council.

There was discussion on the miles that the Police and Fire Chiefs should live. There was discussion on the compensation offered to new Directors, and the Police Chief and Fire Chief for Freeport residency. Mr. Olson said he would recommend this be a policy for a new hire, offering incentives to live in the City. Councilman Muraira said he would like the mileage to be 20 miles from the City.

No action was taken on this item.

Consideration and possible action approving Resolution No. 2022-2770 for Censure on Councilman for a complaint asserting a hostile workplace regarding comments made by a Councilman to a city employee.

City Attorney explained that this is Resolution of Censure. The individual councilman is not allowed to vote on matters that are against them when it involves their own official conduct. He said this is in the Charter, Section 3. 10.

Councilman Cain said his consideration is to pass Resolution No. 2022-2770. Councilman Cain said in the last meeting Councilman Muraira made a comment that he felt this could have been taken care of in house. Councilman Cain said he too, wishes this would have been handled in house. Councilman Cain said the opportunity had been given and time has been there for a resolution, between the two parties. And nothing has come of it. So, in my opinion, this is the only course of action we can take.

A motion was made by Councilman Cain to approve Resolution No. 2022-2770 for Censure on Councilman for a complaint asserting a hostile workplace regarding comments made by a Councilman to a city employee, Seconded by Mayor Bass. With discussion that followed.

Councilman Muraira said we are now in 2023, we should have left this in the past. We could have left the negativity in the past. Councilman Muraira said, I understand that Ms. Wells and Councilman Pena had an issue, but we should have resolved this in Executive Council. He said we could have done a better job. We still have time, but we will go through the vote. He said he just hopes and prays good times will come, and this will all end soon. He said when you leave tonight, don't think of what has happened.

Karla Clark 411 Sailfish said the censure she believes can be applied to everyone. It has gone on for three meetings, and it is only getting worse. As Councilmen Muraira and Cain have said it needs to go away. She said we need to move on and work as one group. There are things that need to be done in order to make Ms. Wells feel like she is valued and respected. She said the council cannot continue, for the citizens sake with this ongoing battle among yourselves.

Mayor Bass said he has thought about this for quite a while. This is nothing that he takes lightly. He said, he looked at the law, looked at the facts. He said he has gone back and reviewed the video. He said he has reviewed the minutes. He said he reviewed the original video from November 7, 2022, as well as the video from December 19. This is about a sitting elected official and their conduct and their communication to an employee. Mayor Bass asked if it occurred? The video says it did. We heard Ms. Wells give her statement, and she wrote a formal statement. We heard Councilman Pena with his rebuttal, and his questions to Ms. Wells. He said there were three words he never heard from Councilman Pena, "I am sorry". Mayor Bass said he thinks this would have gone a long way. Mayor Bass said, he heard, that he himself was responsible, that Mr. Kelty was responsible, and he heard that Betty was responsible. Mayor Bass said he finds it interesting that after this was filed, there is a Special Meeting called for additional censures. I like to think that if Councilman Pena had gone forward to Ms. Wells and apologized we wouldn't be here. He said this is a complaint that was written and filed, and I believe is ultimately true. I think it is exacerbated by an additional censure motion filed by Councilmen Muraira and Pena against the victim, Ms. Wells. They are trying to censure the person that made an outcry, that

stood up and said this is not right. This is embarrassing for the City of Freeport in a number of ways and I don't like where we are. The contempt that Councilman Pena expressed that night was not valued, showed no respect. Therefore, I stand in support of this censure resolution.

Councilman Pena responded to the motion saying I always try to choose my words wisely, and everyone, including me, is allowed to defend themselves. He said please don't misconstrue defending myself, or trying to fight for what is right, as me being the bad guy. I never intended to hurt anyone. I did not mean to offend Ms. Wells. As I said in the last meeting, and I say again "this is simply a smear campaign". It is a legal threat that was communicated to council by Mr. Kelty and Mr. Bass. The matters in the Special Meeting are fact, and many other issues will be coming forward that are censure worthy, and factual. Councilman Pena said he wanted to make a motion tonight, to censure himself. I wanted to censure myself tonight for believing that Mayor Bass stood for truth, for thinking that this body would act prudently, to understanding our legal counsel would give the proper guidance on this. He said the long and short of it is, this is simply a smear campaign. Councilman Pena said that Mayor Bass and Mr. Kelty said, this is a hostile workplace issue. He said it never met the legal definition of "hostile workplace". That requires discrimination. He said that Mayor Bass said I used multiple explicit bad words. Councilman Pena said, I have heard Mayor Bass use more bad words in Executive Session, without violating Executive Session to say what those words were. Councilman Pena said I do not like the false high ground, the false self-righteousness. It is hypocritical. I did call Ms. Betty a liar, because she did lie. He said the lie was this, she said that I asked for my packets to be the way they were. But nobody in their right mind would ask for their packets to be repeatedly missing documents. Councilman Pena said, here is the other kicker, in the last meeting I went through other violations, of insubordination that Ms. Wells had undertaken with request by council. He said Mayor Bass actually had to reprimand Betty, to remind that she has to respond to the request. He said the previous City Attorney had to remind Ms. Wells, and other staff what their role was. He said even the new Legal Counsel had to remind her what her job was as the City Secretary, but as a City Official. Councilman Pena said I am sorry that we got here. I'm not sure that if there's going to be any legal ramifications, but if there are not, and we can commit to all of that, and the City is not at risk, I am willing to have a private conversation with Ms. Wells. That's between Ms. Wells and I. He said there will be other censures coming up, and they are not politically driven. He said this has actually been just the flood gate. He said if we are not here to hold City Hall accountable, then why are we here? He said I know we can do better.

Councilman Pena said he would like to make a motion, to censure himself, because he thought we could do better.

Councilman Pena said he would like to make the second motion, because the motion has already been made. This is just political gamesmanship at its finest.

Councilman Pena said, "I have no further comment and I'll call the question".

Mayor Bass said in regard to your motion, it is not on the agenda, but you are certainly able to do so if you have a co-sponsor to put on the next agenda.

Mayor Bass asked Mr. Olson about the comments made by Councilman Pena, in regards to a hostile work environment. He asked if it qualifies under this? And asked that he please give some kind of a definition.

Mr. Olson said there is overlap between hostile work environment and discrimination claims. He said they are unique causes of action, different elements. Mayor Bass referenced the meeting minutes, that were passed unanimously.

Mayor Bass called the motion for a vote. With a 2-1 vote Resolution No. 2022-2770 for Censure on Councilman for a complaint asserting a hostile workplace regarding comments made by a Councilman to a city employee, the motion passed. Councilman Muraira voted "Nay".

Councilman Pena voted "Nay" but he is unable to vote per the Charter 3.10. He asked that the Charter be read. He said this is a grandstand moment. Mayor Bass read the Charter 3.10. Mayor Bass said we are not making up rules, this is what 3.10 of the Charter says.

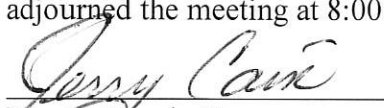
WORK SESSION:

Update on reports / concerns from Department heads

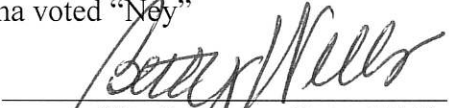
CLOSED SESSION:

Adjourn

On a motion by Councilman Cain, seconded by Councilman Muraira, with 3-1 vote, Mayor Bass adjourned the meeting at 8:00 P.M. Councilman Pena voted "Nay"



Mayor, Brooks Bass
City of Freeport, Texas



City Secretary, Betty Wells
City of Freeport, Texas

Mayor Pro-Tem