

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 8:11 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
Sam Reyna
Pam Dancy
Shonda Marshall
Tom Pearson
Alma Kelty
Manning Rollerson
Melanie Oldham
Mark Parker
Con McCleester
Diane McCleester
Robert Bacon
Margaret Bachman
Karla Clark
Joe Penfield
Bob Casale
Desiree Pearson
Ben Kelty
Kent Holle (Facts)
GiGi Canard
Ron Bachman
Gina Adams
Billy Toomer
Carol Parker
Stephanie Bass
Gail Bass Durbin

Call to order.

Mayor Bass called the meeting to order at 8:11 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

CITIZENS' COMMENTS:

Pam Dancy said she was not trying to make light of the binder. She thinks apologies need to be made from everyone. She said she has no problems with Ms. Wells, she has always been very polite, and has always taken care of everything I have asked for. She said if we are going to be fair, nothing was ever done with Garivey and the Rec Center employee. She spoke of how Mr. Brimage spoke to her. She said she stands for fair and balance. Ms. Dancy apologized to Ms. Wells for being put through all this, she said it is a shame.

Karla Clark spoke of the action for all of council as a whole. She said it is embarrassing. She said the comment made to Councilman Muraira, by Mayor Bass was very demeaning. She said this was very upsetting to her. Very unprofessional. She said it was uncalled for, this needs to end here tonight. She said we need to work for the betterment of Freeport.

Manning Rollerson said, "Ms. Betty, you don't deserve this". He said you are a female, and it was wrong. He said to the council you are responsible for the fever that is in this city. He said this is a political hit job, Councilman Muraira mentioned it on social media. He said if you want to censure someone, you need to censure everyone on the council. He said this city is a laughing stock of the county, and it is embarrassing.

Joe Penfield said what is past, is past. Mr. Penfield said there are two separate issues here. He said there is the issue of Jeff Pena's behavior, which was already voted on. And there are all these censures on four people sitting up here. He said it is obvious to him that this is a blatant attempt to distract from Mr. Pena's behavior. Mr. Penfield said he and Jeff are friends, and he agrees with a lot of stuff Jeff says about the city, but the fact is; what he did was against an employee. He said heated conversations between council, that's what government is all about. You guys are equals, and he doesn't feel this rises to a censure, no matter how heated the conversation gets. He said there is no purpose for the censure among the four of you. Other than it distracts from what Jeff did and his censure. Mr. Penfield said he agrees, a simple "I am sorry" would have been enough. He said he does not think this has any merit. He said as far as censuring Ms. Wells, it is ridiculous.

Gail Bass Durbin said she is the sister to Mayor Bass. She said her parents are Mr. and Mrs. Ogdon Bass long time residents of the City of Freeport. She said the Bass's love the town of Freeport. She said Mayor Bass serves the community with his time and his money, and most importantly, his heart. She said their dad taught them that any job worth doing, is worth doing well. And their mom taught to give without any expectation of self-gain. She said it grieves her to hear and read of her brother's integrity being impugned without regard to the facts and the requirements he is bound to by law. She said he is a man of solid moral character. She takes strong umbrage with those who seek to divert our community from the truth and besmirch the reputation of Freeport, and Brook's character for their own agenda.

COUNCIL REGULAR AGENDA

Mayor Bass said there are four censures filed. One against Mayor Bass, one against Councilman Cain, one against Mr. Kelly and one against Betty Wells. He said these were brought by Councilman Pena and co-sponsored by Councilman Muraira. Mayor Bass asked Mr. Olson if he had any legal comments in regards to item number four.

Mr. Olson said this gives him heartburn. He said the censure filed is against the City Secretary, Betty Wells. He said this is a City Manager form of Government. Mr. Olson said it was brought to his attention that Betty Wells was not hired by Council, but actually hired by the City Manager. According to the Charter, City Council does not have any authority to censure or discipline a city employee other than the City Manager. Mayor Bass asked, are you saying we can or cannot proceed on item number four? Mr. Olson said you should not legally proceed, because the Charter precludes you from interfering with the administrative issues and you don't have any authority to discipline the City Secretary, as a council.

Councilman Pena read the agenda item number four, saying it is consideration and possible action for censure of City Secretary Betty Wells for abusing her position as City Secretary in the City Official capacity, not the administrative capacity. He said the City Secretary is a City Official. Councilman Pena asked if we are looking at the term "City Official" loosely now? Mr. Olson said his concern is that, she as the City Secretary, is a City Official, but she reports to the City Manager, not the City Council.

Mayor Bass asked Councilman Muraira, if he is still on board for item number four based on the City Attorney's opinion? Councilman Muraira said yes, but actually more inclined to the City Attorney's advice, but we can discuss it. Mayor Bass asked if he withdrew his response in placing item number four on the agenda? Councilman Muraira said no.

Consideration and possible action approving a Resolution for Censure on Mayor Bass for a complaint that the Mayor made an inappropriate, demeaning, and disrespectful personal attack and insult toward Councilman Muraira.

Mayor Pro Tem Cain, presented Resolution No. 2023-2774 for Censure on Mayor Bass for a complaint that the Mayor made an inappropriate, demeaning, and disrespectful personal attack and insult toward Councilman Muraira.

A motion was made by Councilman Pena to approve Resolution No. 2023-2774 for Censure on Mayor Bass for a complaint that the Mayor made an inappropriate, demeaning, and disrespectful personal attack and insult toward Councilman Muraira. Councilman Pena read the full Resolution No. 2023-2774. Seconded by Councilman Muraira. With discussion that followed.

Councilman Muraira said regarding the comment "I cannot vote for the levee, because I do not understand", I do take that personal. He said I have actually reported this kind of behavior to HR in the past when I worked in construction. He said, I really took this personal. He said he received calls concerning that language. Councilman Muraira said he thinks we need to grow up.

Councilman Pena said he thinks the resolution speaks for itself, but he said that the insults to Councilman Muraira intelligence and judgment, because the Mayor does not agree with the way Councilman Muraira votes. Councilman Pena said he thinks its pretty irresponsible, and does not help what is already a very toxic environment.

Mayor Bass apologized to Councilman Muraira. He said ladies and gentlemen of the audience, if I offended you by my verbiage or by my passion when we get in heated discussions, I apologize to you

too. Because this is truly not my intent. I get frustrated, and I apologize. Councilman Muraira, I apologize. Councilman Pena, I demeaned your sensibilities, I apologize to you too. I am sorry.

Mayor Pro Tem Cain, called the motion for a vote. With a 2-1 vote for Resolution No. 2023-2774 for Censure on Mayor Bass for a complaint that the Mayor made an inappropriate, demeaning, and disrespectful personal attack and insult toward Councilman Muraira, the motion passed. Mayor Pro Tem Cain, voted "Nay". Councilmen Pena and Muraira voted "Aye" Mayor Bass was recused from the vote.

Consideration and possible action approving Resolution for Censure on Councilman Cain for a complaint that Councilman Cain made an offensive, inappropriate, and discriminatory comment about the hired consultant's physical disability while making a presentation at the council meeting.

A motion was made by Councilman Pena to approve Resolution No. 2023-2775 for Censure on Councilman Cain for a complaint that Councilman Cain made an offensive, inappropriate, and discriminatory comment about the hired consultant's physical disability while making a presentation at the council meeting. Councilman Pena read the full Resolution No. 2023-2775. Seconded by Councilman Muraira. With discussion that followed.

Mayor Bass asked Councilman Muraira if he heard the conversation Councilman Cain was being censured for? Councilman Muraira said no sir. Mayor Bass asked Councilman Muraira if he feels he can adequately vote upon that, without having known that particular conversation? Councilman Muraira said yes sir.

Councilman Pena said it is actually on the video. Mayor Bass said he did not hear this conversation. But I just question the depths we are going to in your road to revenge. Councilman Pena said this is not revenge. Mayor Bass said I cannot vote for this because I did not hear it.

Councilman Cain said it is his opinion, based on Councilman Pena's own admission, that the censures are premeditated. And politically motivated retaliation. Due to the censure towards Councilman Pena. He said I have to be true to myself. If I said or did something that offended somebody, it is my obligation to apologize. Councilman Cain said, "Councilman Pena, I apologize for my actions that offended you." It was not or never would be my intention. Councilman Cain said anyone sitting out here watching, or anyone on Facebook, if I have done something that has offended you, please accept my apologies.

Mayor Bass, called the motion for a vote. With a 2-1 vote for a complaint that Resolution No. 2023-2775, for Censure on Councilman Cain for a complaint that Councilman Cain made an offensive, inappropriate, and discriminatory comment about the hired consultant's physical disability while making a presentation at the council meeting, the motion passed. Mayor Bass, voted "Nay" Councilmen Pena and Muraira voted "Aye". Councilman Cain was recused from the vote.

Consideration and possible action approving a Resolution No. 2023-2776 for Censure on City Manager Tim Kelty for admitting that he instructed City Secretary Betty Wells to put her allegation of "Hostile Workplace" on the agenda, and further instructed and approved of her using the specific legal term of "Hostile Workplace". Such actions are clearly in the personal benefit of a legal claim by Betty Wells against the interest of the City of Freeport without regard to the financial and legal risk to the City.

A motion was made by Councilman Pena to approve Resolution No. 2023-2776 for Censure on City Manager Tim Kelty for admitting that he instructed City Secretary Betty Wells to put her allegation of "Hostile Workplace" on the agenda, and further instructed and approved of her using the specific legal term of "Hostile Workplace". Such actions are clearly in the personal benefit of a legal claim by Betty

Wells against the interest of the City of Freeport without regard to the financial and legal risk to the City. Councilman Pena read the full Resolution No. 2023-2776. Seconded by Councilman Muraira. With discussion that followed.

Councilman Pena said, I think the resolution already explains itself. He said it was very clear that it was communicated that there was a potential legal claim here, so while that is basically hanging over the heads of council as a potential lawsuit, I found it completely irresponsible that the City Manager would help facilitate any potential lawsuit against the city. We are now going into debate what hostile workplace is, it is my position that risk alone by Mr. Kelty, in this particular case, it is grounds for censure.

Councilman Muraira said he had no comment.

Mayor Bass said there is a statement that keeps being brought up by Councilman Pena, about the hostile workplace. Mayor Bass said, ladies and gentlemen, if you look at the letter of complaint that was filed by Ms. Wells, against Councilman Pena. It was her language. We did not invent it. We didn't bring it up. Nobody made anything up. Mayor Bass said that, Mr. Olson has no problem with the way it was worded on the agenda. Mayor Bass said this is from legal. Mayor Bass said we wanted to keep it in Executive Session. Mayor Bass said therefore I would stand in an opposition to this censure, as being retaliatory, in nature. He said I do recall a comment it said, "if y'all file a censure against me, I will file one against all of y'all". Councilman Cain said the comment was "I'm coming after all of y'all".

City Manager, Tim Kelty said the allegations are false. Mr. Kelty said I never directed Ms. Wells to put the language on the agenda. I put it on myself after it was reviewed and approved the City Attorney. The Language came directly from the employee's complaint. Legal support for the language indicates there is no more legal jeopardy against the City, than that which was created by Councilman's initial and continued actions. Mr. Kelty said that the professional code of ethics he holds high, precludes him from taking any action as City Manager with the intention to politically target a Councilmember. He said failing to bring this to the City Council for consideration and action would have placed the City in greater legal jeopardy.

Mayor Bass, called the motion for a vote. With a 2-2 vote to approve Resolution No. 2023-2776 for Censure on City Manager Tim Kelty for admitting that he instructed City Secretary Betty Wells to put her allegation of "Hostile Workplace" on the agenda, and further instructed and approved of her using the specific legal term of "Hostile Workplace". Such actions are clearly in the personal benefit of a legal claim by Betty Wells against the interest of the City of Freeport without regard to the financial and legal risk to the City, the motion failed to pass. Mayor Bass, voted "Nay". Councilman Cain voted "Nay". Councilmen Pena and Muraira voted "Aye".

Consideration and possible action approving a Resolution for Censure of City Secretary Betty Wells for abusing her position as City Secretary and as a City Official, to enhance her legal claim against the city alleging a "Hostile Workplace" and further made false and misleading statements about her claim in open session of the meeting of December 19, 2022.

Mayor Bass asked if it was still the intent by Councilman Pena to proceed with this particular item, even based upon legal statements?

Councilman Pena said he would like additional clarification. City Attorney Mr. Olson said, a good way to look at this is, the City Secretary is absolutely a City Official. However, City Officials, in this case, the City Secretary, which does not fall under City Council, it falls under the City Manager's umbrella of

review. It is really not appropriate as per the Charter, to act on any disciplinary action against an employee, that you don't directly hire or fire.

Mayor Bass asked Councilmen Pena and Muraira if it is still their intent, to move forward with this particular item?

Councilman Pena said he is not sure, if Mr. Olson is stipulating that it is in fact legally moot point. Mr. Olson said, it essentially is. Mr. Olson said as far as y'all having any authority, it could be nothing but detrimental. A censure would be included as a disciplinary action, against a City Employee that falls directly under the City Manager. Mr. Olson said y'all are prohibited from interfering, as per the Charter.

Councilman Pena said, if that's the case, then there is no methodology for censure for the City Secretary. Mr. Olson said censure of a city employee is through the City Manager's office as per the Charter. Councilman Pena said what he is hearing we can't hold City Staff accountable, but the City Manager holds the City Staff accountable.

A motion was made by Councilman Pena that we need accountability. Mayor Bass said you cannot make this motion because it is not on the agenda.

Councilman Pena said, I saw the Mayor show a sense of humility to apologize, and then I saw Councilman Cain also show a sense of humility to apologize. Councilman Pena said, so I'll do the same. Ms. Wells, I am sorry if I offended you. And the citizens of Freeport too, and your friends, and family. He said, we're going to have some rigorous debates here. And we're going to have some very serious disagreements. He said I take this position very seriously. Councilman Pena said, with that said, I will just withdraw the motion if Councilman Muraira wants to as well.

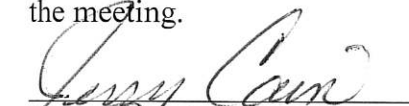
Councilman Muraira said that's great by me.

Mayor Bass asked Councilman Pena if he is wanting to table or withdraw the motion. Councilman Pena said withdraw. Mayor Bass asked Councilman Muraira the same. He said yeah, withdraw it.

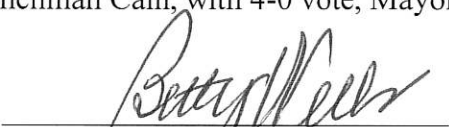
The agenda item was withdrawn

Adjourn

On a motion by Councilman Pena, seconded by Councilman Cain, with 4-0 vote, Mayor Bass adjourned the meeting.



Mayor, Brooks Bass
City of Freeport, Texas



City Secretary, Betty Wells
City of Freeport, Texas

Mayor Pro Tem