

NOTICE OF PUBLIC HEARING
THE FREEPORT CITY COUNCIL
MONDAY, MAY 15TH, 2017 6:00 P.M.
RIVER PLACE, 733 MYSTERY HARBOR LANE
FREEPORT, TEXAS
AGENDA

1. Call to order.
2. Executive Session:
Section 551.071, Government Code:
Consultation with City Attorney concerning pending or contemplated litigation, settlement offers or other matter in which his duty to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflicts with Chapter 551, Government Code, to wit:
 - Discuss and review Section 3.02 Qualifications of the Charter Review with Mayor, City Council and City Attorney.
3. Invocation.
4. Pledge of Allegiance.
5. Attending citizens and their business.
Members of the public are allowed to address the City Council at this time. Note, specific factual information or a recitation of existing policy may be furnished in response to an inquiry made, but any deliberation, discussion, or decision with respect to any subject about which the inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting for which notice is provided in compliance with the Texas Open Meetings Act unless said notice appears herein. The public is reminded that there is a (4) minute time limit as approved by City Council on June 21, 2010.
6. Consideration of approving April 24, 2017 Council Minutes. Pg. 448-451
7. Discussion by citizen James Barnett regarding election candidate eligibility. Pg. 452
8. Discussion by Attorney Justin Gilbert regarding election candidate eligibility.
9. Discuss and consider taking a record vote regarding candidate election eligibility for Talbert Troy Brimage. Pg. 453-458
10. Consideration of approving Ordinance No. 2017-2137 canvassing the returns and declaring the results of the 2017 General Annual Election for the City of Freeport. Pg. 459-462

11. Administer Oath of Office to duly elected: Mayor Troy T. Brimage, Councilman Roy Yates Ward D and Councilman Bass Brooks Ward B. Pg. 463-464
12. Election the Mayor Pro Tem.
13. Appreciation plaque to Mayor Norma M. Garcia, Councilwoman Barbree and Councilman Bolton for dedicated service to the City of Freeport.
14. Consideration of approving Ordinance No. 2017-2136, amending the Comprehensive Zoning Ordinance of the City, now codified as Chapter 155 of the Code of Ordinance of the City to add definitions for open space and greenbelt; ratifying and confirming all actions previously taken by the Planning Commission of said City or the City Council or both. Pg. 465-470

Adjourn

Items not necessary discussed in the order they appear on the agenda. The Council at its discretion may take action on any or all of the items as listed. This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code).

In compliance with the Americans with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings. Request should be received 48 hours prior to the meeting. Please contact the City Secretary office at 979-233-3526. I, Delia Munoz City Secretary for the City of Freeport, Texas certify that this agenda was posted in the official glass case at the rear door of the City Hall, within 24 hours a day public access, 200 West 2nd Street, Freeport Texas, May 12, 2017 at or before 5:00 p.m.

Delia Munoz, City Secretary
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport met on Monday, April 24th, 2017 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 Norma Moreno Garcia
Councilman Larry L. McDonald
Councilman Fred Bolton
Councilwoman Nicole Mireles
Councilwoman Sandra Barbree

Staff: Jeff Pynes, City Manager
Gilbert Arispe, Assistant City Manager
Wallace Shaw, City Attorney
Delia Munoz, City Secretary
Nat Hickey, Property Manager
Dan Pennington, Police Chief
Bob Welch, Finance Director
Jennifer Hawkins, Economic Development Corp.

Visitors: Sam Reyna Melanie Oldham
Douglas Domingues Margaret McMahan
Troy Brimage Sabrina Brimage
Jerry Meeks Eric Hayes
Lila Diehl Larry Fansher
Ruben Renobato Cristian Tijernia
Brooks Bass

Call to order.

Mayor Norma Moreno Garcia called the meeting to order at 6:00 p.m.

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance.

Mayor Norma Moreno Garcia led the Pledge of Allegiance.

Attending citizens and their business.

Members of the public are allowed to address the City Council at this time. Note, specific factual information or a recitation of existing policy may be furnished in response to an inquiry made, but any deliberation, discussion, or decision with respect to any subject about which the inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting for which notice is provided in compliance with the Texas Open Meetings Act unless said notice appears herein. The public is reminded that there is a (4) minute time limit as approved by City Council on June 21, 2010.

There were none.

Consideration of approving April 3, 2017 Council Minutes.

On a motion by Councilwoman Barbree, seconded by Councilman Bolton, with all present voting "Aye", Council unanimously approved the April 3, 2017 Council Minutes.

Consideration of approving and readopting Resolution No. 2017-2512 authorizing the City Manager to apply to the office of the Governor, Homeland Security Grant Division, for FY 2017-2018 Asset Protection Initiative Grant and agreeing to certain conditions in connections with such Grant.

On a motion by Councilman McDonald, seconded by Councilman Bolton, with all present voting "Aye", Council unanimously approved readopting Resolution No. 2017-2512 authorizing the City Manager to apply to the office of the Governor, Homeland Security Grant Division, for FY 2017-2018 Asset Protection Initiative Grant and agreeing to certain conditions in connections with such Grant.

Consideration of authorizing the purchase of new (CAD) Computer Aided Dispatcher and (RMS) Records Management System software from Zuercher Technologies for \$207,681. This amount has been screened and approved for 100% reimbursement by the State of Texas via a previous grant award.

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved authorizing the purchase of a new (CAD) Computer Aided Dispatcher and (RMS) Records Management System software from Zuercher Technologies for \$207,681. This amount has been screened and approved for 100% reimbursement by the State of Texas via a previous grant award.

Consideration of approving Resolution No. 2017-2515 denying the distribution cost recovery factor rate increase of Centerpoint Energy Houston Electric, LLC made on or about April 6, 2017.

On a motion by Councilman McDonald, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved Resolution No. 2017-2515 denying the distribution cost recovery factor rate increase of Centerpoint Energy Houston Electric, LLC made on or about April 6, 2017.

Consideration of authorizing the City Attorney to prepare an ordinance for closing, abandoning and/or the sale of Ash Street Right of Way on West 9th Street, Windsor Terrace Subdivision, between Block 3, Lot 18, (Zoned R-2) and Lot 1, Block 4 (Zoned R-3).

Eric Hayes owns 27 acres, directly behind West 9th Street, Windsor Terrace Subdivision. He asked City Council not to sell the right of way. He stated that he was not notified of the sale of Ash Street Right of Way on West 9th Street. He asked for the opportunity to bid on the sale of the right of way and is willing to pay more than the property's appraised value. The closing of this street would cause him not to have an entrance to his proposed development.

Councilwoman Mireles asked why Mr. Hayes was not considered and given an opportunity to buy the Right of Way.

Mayor Norma Garcia asked if selling 1/3 to each was an option. She asked Mr. Shaw if there was enough for a road.

On a motion by Councilwoman Mireles to deny the closing, abandoning and/or sale of Ash Street right of way on West 9th Street, seconded by Councilman McDonald, with all present voting 2 to 3, motion failed. Councilman Bolton, Councilman Barbree and Mayor Garcia opposed.

On a motion by Councilman Bolton, seconded by Councilwoman Barbree, with all present voting 3 to 2, Council approved authorizing the City Attorney to prepare an ordinance for closing, abandoning and/or the sale of Ash Street Right of Way on West 9th Street, Windsor Terrace Subdivision, between Block 3, Lot 18, (Zoned R-2) and Lot 1, Block 4 (Zoned R-3).

Consideration of approving the sale of Tract D-18, Abstract 99, 0.657 acres, known as No. 2 South Front Street, Velasco Townsite, Tax Id. 0099-0005-003.

Reagendaed.

Consideration of approving extending Municipal Water Service to Vernor Material on Commerce Street and approving the estimated cost not to exceed \$1,181,000.

On a motion by Councilman Bolton, seconded by Councilwoman Barbree, with all present voting "Aye", Council unanimously approved extending Municipal Water Service to Vernor Material on Commerce Street and approving the estimated cost not to exceed \$1,181,000.

Adjourn

On a motion by Councilman Bolton, seconded by Councilwoman Barbree, with all present voting "Aye", Mayor Norma Moreno Garcia adjourned the meeting at 6:18 p.m.

Mayor Norma Moreno Garcia
City of Freeport, Texas 77541

City Secretary, Delia Munoz
City of Freeport, Texas 77511

Doyle Neighbours
Attorney
1060 Grove Drive
Angleton, TX 77515
Office: 979-997-0331
Fax: 866-272-0225
doyleneighbours@gmail.com

May 11, 2017

Freeport Mayor & City Council Members
City Manager Jeff Pynes
Assistant City Manager Gilbert Arispe
City Secretary Delia Munoz
City Attorney Wallace Shaw
200 W. Second St.
Freeport, TX 77541

RE: Request discussion item be placed on next city council meeting agenda

Dear Freeport City Administration:

On behalf of my client James Barnett, who is a resident of Freeport, I wish to address the city council at it's next regularly scheduled city council meeting on May 15, 2017, to discuss candidate Troy Brimage's ineligibility to run for the office of Mayor in the City of Freeport.

I would appreciate an acknowledgment that this request has been received, and a confirmation it will be placed on the next city council meeting agenda for discussion. I can be reached at 979-997-0331.

Thank you


Doyle Neighbours



Norma Moreno Garcia
Mayor

Jeff Pynes
Chief Executive Officer
City Manager

May 12, 2017

Gilbert Arispe
Assistant City Manager

Mayor Norma Moreno Garcia
Freeport City Council

I am in receipt of a letter dated May 12, 2017 from the City Secretary Delia Munoz. The City Secretary is the custodian of records for the city and responsible for our participation in the election process with the Brazoria County Elections Department for whom we contract to manage the election process for the City of Freeport.

The attached letter details the City Secretary's certification and eligibility of candidates. As a point of oversight, I have reviewed and affirm her certification of candidate eligibility for Troy T. Brimage.

Furthermore, Section 5.07 of the Freeport Charter calls for a meeting to canvass the returns of an election within five days of an election. The Brazoria County Elections Department, for whom the City contracts with to perform elections, has not completed the certified voting returns because of remaining provision ballots. This document will only be available after counting all votes and then the final official certification will be available Monday, May 15, 2017. According to the Brazoria County Elections Department, our last day to canvass our certified voting records is May 17, 2017, which is in accordance with the State of Texas Election Law statute 67.003, which supersedes our outdated and out of tolerance Charter provision 5.07.



Jeff Pynes

City Manager



Munoz, Delia

From: susanc@brazoria-county.com
Sent: Friday, May 12, 2017 12:20 PM
To: Munoz, Delia
Subject: Canvassing Date

This is from the Secretary of State's election calendar for the May 6th election, and Freeport has 27 provisional ballots:

Thursday, May 11, 2017 (5th day after election day)

Last day to receive carrier envelopes placed in the mail by 7:00 p.m. on election day, Saturday, May 6, 2017, from voters who are voting outside the United States. (Sec. 86.007(d)(3)).

Friday, May 12, 2017 (6th day after election day)

Deadline for provisional voter to (1) present acceptable identification to county voter registrar, (2) execute an affidavit relating to natural disaster or religious objection in presence of county, or (3) apply for and receive a disability exemption with the voter registrar. (Secs. 65.054(b); 65.0541(a)). The "acceptable form of photo identification" for this procedure is one of the seven listed in the "acceptable forms of photo ID" in note 1. With the exception of the U.S. citizenship certificate, the identification must be current or have expired no more than four years before being presented. The forms of supporting identification listed in the "list of the supporting forms of ID that can be presented if the voter does not possess an acceptable form of photo identification, and cannot obtain one due to a reasonable impediment" in note 1 do not apply for this procedure. (Secs. 65.054(b), 65.0541(a); 1 Tex. Admin. Code Sec. 81.71).

Deadline for voter registrar to complete the review of provisional ballots. (1 Tex. Admin. Code Sec. 81.175(a)(1)).

First day that newly-elected officers of Type A general law city may qualify and assume duties of office (per Sec. 22.006, Local Government Code), but see **NOTE**, below.

NOTE: Council members may take office anytime following the canvass. Section 22.006 of the Texas Local Government Code states that a newly-elected municipal officer of a Type A city may exercise the duties of office beginning the fifth day after the date of the election, excluding Sundays. However, **no newly elected official may qualify for office before the official canvass of the election has been conducted** (or would have been conducted, in the event of a cancelled election). Section 22.036 of the Texas Local Government Code further requires that the newly-elected governing body of the municipality "meet at the usual meeting place and shall be installed."

NOTE: If a recount petition has been filed and a winning candidate's race is involved in the recount, the certificate of election cannot be issued for that race until the recount has been completed. (Secs. 67.016 and 212.0331).

Monday, May 15, 2017 (9th day after election day)

Last day for early voting ballot board to convene to qualify and count any late ballots that were submitted from outside the United States and received by Thursday, May 11, 2017. (Sec. 87.125(a)).

Last day for early voting ballot board to convene to qualify and count any provisional ballots that have been reviewed by the voter registrar. (Secs. 65.051(a)).

NOTE - NEW LAW: Senate Bill 1703 (2015), amended Sections 65.051 and 87.125 to provide a deadline of the ninth day for the early voting ballot board to convene and count any overseas or provisional ballots.

Wednesday, May 17, 2017 (11th day after election day)

Last day for official canvass of returns by governing authority of political subdivision. (Secs. 67.003).

Susan Cunningham
Brazoria County Elections Dept.
979-864-1371
www.brazoriacountyvotes.com

This message has been prepared or disseminated using resources owned by Brazoria County and is subject to the County's policies on the use of County provided technology. E-mail created or received through the County's computer system by any County employee or official may be considered a public record, subject to public inspection under the laws of the State of Texas.



200 West 2nd Street • Freeport, TX 77541-5773

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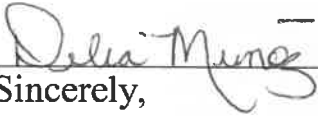
May 12, 2017

Re: Talbert Troy Brimage
Election Candidate Eligibility

I, Delia Munoz City Secretary for the City of Freeport confirmed the eligibility of candidates for the 2017 Annual Election, at the time of submission. As part of my eligibility review, the following information was used to confirm eligibility of candidate Troy Brimage.

Brazoria County Voters Registration Office Stan Lindner confirmed that Talbert Troy Brimage is a registered active voter since 1989. He is a registered voter in the City of Freeport since March 4, 2015 at 223 S. Front, Freeport. Tx.

City of Freeport Water Department, Darla Autrey, has confirmed that he has had residential water service since 2013 to present.


Sincerely,
Delia Munoz
City of Freeport



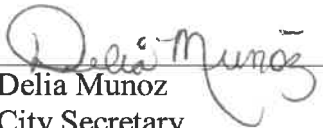
200 West 2nd Street • Freeport, TX 77541-5773

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CITY'S SECRETARY CERTIFICATE

I, Delia Munoz, City Secretary and custodian of records for the City of Freeport, Brazoria County, Texas do hereby certify that the attached copy of the Application for a Place on the May 6, 2017 of Talbert Troy Brimage dated January 31, 2017 is a true copy of the official record in my lawful custody and possession, as appears in the records of the City of Freeport, Texas.

Witness my official signature and the seal of the City's affixed this 27th day of February, 2017.



Delia Munoz
City Secretary
City of Freeport

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED OPTIONAL

APPLICATION FOR A PLACE ON THE MAY 6 2017 GENERAL ELECTION BALLOT
 TO: City Secretary/Secretary of Board City of Freeport

I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.

OFFICE SOUGHT (Include any place number or other distinguishing number, if any.) <u>Mayor City of Freeport</u>	INDICATE TERM <input checked="" type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED
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FULL NAME (First, Middle, Last) <u>Talbert Troy Brimage</u>	PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT ¹ <u>Troy Brimage</u>
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PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe the address at which you receive personal mail and location of residence.) <u>203 S. Front St. Freeport, Tx 77541</u>	PUBLIC MAILING ADDRESS (Campaign mailing address, if available.) <u>326 S. Brazosport Blvd. Freeport, Tx 77541</u>
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CITY <u>Freeport</u>	STATE <u>TX</u>	ZIP <u>77541</u>	CITY <u>Freeport</u>	STATE <u>TX</u>	ZIP <u>77541</u>
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PUBLIC EMAIL ADDRESS (if available) <u>troyb@sig4you.com</u>	OCCUPATION (Do not leave blank) <u>Developer</u>	DATE OF BIRTH <u>01/17/1971</u>	VOTER REGISTRATION VOID NUMBER (Optional) ²
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TELEPHONE CONTACT INFORMATION (Optional) Home: Work: <u>979-233-4500</u> Cell: <u>979-482-7370</u>	LENGTH OF CONTINUOUS RESIDENCE AS OF DATE APPLICATION SWORN	
	IN STATE <u>46</u> year (s) <u>1</u> month(s)	IN TERRITORY FROM WHICH THE OFFICE SOUGHT IS ELECTED ³ <u>4</u> year (s) <u> </u> month(s)

If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election.

Before me, the undersigned authority, on this day personally appeared (name) Talbert Troy Brimage, who being by me here and now duly sworn, upon oath says:

"I, (name) Talbert Troy Brimage of Freeport Brazoria County, Texas, being a candidate for the office of Mayor, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code.

I further swear that the foregoing statements included in my application are in all things true and correct."

X [Signature]
 SIGNATURE OF CANDIDATE

[Signature]
 City Secretary

DELIA MUNOZ
 Notary Public, State of Texas
 Comm. Expires 03-14-2017
 NOTARY ID 007010810

Sworn to and subscribed before me at City Hall this the 31 day of Jan, 2017

[Signature]
 Signature of Officer Administering Oath⁴

[Signature]
 Title of Officer Administering Oath

TO BE COMPLETED BY CITY SECRETARY OR SECRETARY OF BOARD:
 (See Section 1.007)

1-31-17
 Date Received

[Signature]
 Signature of Secretary

Voter Registration Status Verified

City of Freeport Annual General Election Cumulative Report — Unofficial
Brazoria County — Joint Local Election — May 06, 2017

Total Number of Voters : 16,601 of 182,717 = 9.09%
 Number of District Voters: 1,048 of 5,598 = 18.72%

Precincts Reporting 67 of 67 = 100.00%
 District Precincts Reporting 4 of 4 = 100.00%

05/06/2017 09:00 PM

*Unofficial
Not Certified*

Party	Candidate	Absentee	Early	Election	Total
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Mayor, Vote For 1

Troy Brimage		4	57.14%	438	59.27%	166	56.66%	608	58.52%
Tyrene "Ty" Morrow		3	42.86%	301	40.73%	127	43.34%	431	41.48%
Cast Votes:		7	100.00%	739	99.46%	293	98.32%	1,039	99.14%
Over Votes:		0	0.00%	0	0.00%	0	0.00%	0	0.00%
Under Votes:		0	0.00%	4	0.54%	5	1.68%	9	0.86%

City Council Position B, Vote For 1

Margaret Lena McMahan		1	50.00%	107	40.69%	38	38.00%	146	40.00%
Brooks Bass		1	50.00%	156	59.32%	62	62.00%	219	60.00%
Cast Votes:		2	100.00%	263	99.25%	100	98.04%	365	98.92%
Over Votes:		0	0.00%	0	0.00%	0	0.00%	0	0.00%
Under Votes:		0	0.00%	2	0.75%	2	1.96%	4	1.08%

City Council Position D, Vote For 1

Roy Yates		0	0.00%	105	56.45%	39	48.75%	144	53.53%
Robert Garcia		0	0.00%	7	3.76%	4	5.00%	11	4.09%
Cristina Tijerina		3	100.00%	74	98.78%	37	46.25%	114	42.38%
Cast Votes:		3	100.00%	186	97.89%	80	95.24%	269	97.11%
Over Votes:		0	0.00%	0	0.00%	0	0.00%	0	0.00%
Under Votes:		0	0.00%	4	2.11%	4	4.76%	8	2.89%

ORDINANCE NO. 2017-2137

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, MAKING CERTAIN FINDINGS OF FACT REGARDING AND CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE ANNUAL ELECTION HELD ON THE FIRST SATURDAY IN MAY, 2017, BEING MAY 6, 2017, HELD IN AND THROUGHOUT SAID CITY FOR THE PURPOSE OF ELECTING, FOR A TWO (2) YEAR TERM, A PERSON TO THE OFFICE OF MAYOR OF SAID CITY AND, IN WARDS B AND D OF SAID CITY, FOR THE PURPOSE OF ELECTING, FOR A TERM OF TWO YEARS EACH, PERSONS TO COUNCIL POSITION B AND COUNCIL POSITION D ON THE CITY COUNCIL OF SAID CITY; PROVIDING FOR RATIFICATION AND CONFIRMATION OF THE ACTION TAKEN BY THIS ORDINANCE BY THE MAYOR OF SAID CITY; AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE.

BE IT ORDAINED AND ORDERED, RESPECTIVELY, BY THE CITY COUNCIL AND MAYOR OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS:

SECTION ONE--Scope of Ordinance

This ordinance relates to the annual election called by Ordinance No. 2017-2129 of the City of Freeport, Brazoria County, Texas, heretofore read, passed, adopted and ratified on February 6, 2017, by the City Council and Mayor of said City, ordaining and ordering, respectively, that an election be held in and throughout said city on the first Saturday in May, 2017, being May 6, 2017, for the purpose of electing, for a two (2) year term, a person to the office of Mayor of said city and, in Wards B and D of said City, for the purpose of electing to office, for a term of two (2) years each, persons to fill the offices of Council Position B and Council Position D on the City Council of said City.

SECTION TWO--Findings of Fact Regarding Election

The Mayor and City Council of the City of Freeport, Texas, make the following findings of fact with respect to said election, to-wit:

First, that notice of said election was given in the manner and at the time required by law.

Second, that said election was duly called and held in the manner and at the time required by law, and said Ordinance No. 2017-2129, and that only qualified voters were permitted to vote.

Third, that based on the election returns of said election, which are now

before the Mayor and City Council and which are found to be in due form and order and to have been regularly made as required by law, at said election a total of 1,039 votes were cast in the election for mayor, a total of 365 votes were cast in the election for Council Position B and a total of 269 votes were cast in the election for Council Position D.

Fourth, that the following named candidates received the number of votes set opposite their names, to-wit:

<u>NAME</u>	<u>POSITION</u>	<u>TOTAL VOTES</u>
TROY T. BRIMAGE	MAYOR	608
TYRONE WY. MORROW	MAYOR	431
MARGARET LENA McMAHAN	COUNCIL POSITION B	146
BROOKS BASS	COUNCIL POSITION B	219
ROY YATES	COUNCIL POSITION D	144
ROBERT GARCIA	COUNCIL POSITION D	11
CRISTRINA TIJE3RINA	COUNCIL POSITION D	114

Fifth, that the following named persons received the number of write-in votes for the position set opposite their names, to-wit: NONE.

SECTION THREE--Declaring the Results of Election for Mayor

The Mayor and City Council of the City of Freeport, Texas, hereby declare and ordain, respectively, that TROY T. BRIMAGE has been elected Mayor of the City of Freeport for a term of two (2) years.

SECTION FOUR--Declaring the Results of Election for Council Position B

The Mayor and City Council of the City of Freeport, Texas, hereby declare and ordain, respectively, that, in the election for Council Position B, BROOKS BASS has received a majority of the votes cast and has been elected to Council Position B for a term of two (2) years.

SECTION FIVE-Declaring the Results of Election for Council Position D

The Mayor and City Council of the City of Freeport, Texas, hereby declare and ordain, respectively, that, in the election for Council Position D, ROY YATES received a majority of the votes cast and has been elected to Council Position B for a term of two (2) years.

SECTION SIX--Qualification

Upon filing the signed statement and taking the Constitutional Oath of Office as required by Article 16, Section 1 of the Texas Constitution TROY T. BRIMAGE, BROOKS BASS and ROY T. YATES have been elected for such term and until his successor shall have been duly elected and qualified according to law.

SECTION SEVEN--Ratification and Confirmation by Mayor

By signing this ordinance, the undersigned Mayor of the City of Freeport, Texas, hereby ratifies and confirms as her action all matters herein above recited which by law come within her jurisdiction.

SECTION EIGHT--Effective Date

This ordinance shall be effective immediately upon its passage and adoption.

READ, PASSED AND ADOPTED this _____ day of May, 2017.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney,
City of Freeport, Texas

THE CITY OF

200 West Second St • Freeport, TX 77541



FREEPORT

979.233.3526 • Fax 979.233.8867

Norma Moreno Garcia
Mayor

April 28, 2017

Re: Revision to the Zoning Ordinance

To Mayor and Council:

The Zoning Ordinance for the City of Freeport was originally adopted in 1964. While the Zoning Ordinance as a whole is a very good document for the City of Freeport, there are some things that need to be addressed since the concepts are new in nature. The definitions of "Open Space" and "Greenbelt" are such examples. The emphasis in "green" areas and the desire for cities to protect residential areas from commercial developments has caused the need to update zoning ordinances. The ordinance change will update the existing Zoning Ordinance for the City of Freeport.

Jeff Pynn
Chief Executive Officer
City Manager

Gilbert Arisp
Assistant City Manager

Respectfully,

Oscar Arevalo, CBO, Building Official.



w P465



ORDINANCE NO. 2017-2136

AN ORDINANCE OF THE CITY OF FREEPORT, BRAZORIA COUNTY, TEXAS, CONTAINING A PREAMBLE; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, NOW CODIFIED AS CHAPTER 155 OF THE CODE OF ORDINANCES OF THE CITY TO ADD DEFINITIONS FOR OPEN SPACE AND GREENBELT; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE PLANNING COMMISSION OF SAID CITY OR THE CITY COUNCIL, OR BOTH; PROVIDING THAT ANY PERSON VIOLATING SAID CODE OF ORDINANCES, AS AMENDED BY THIS ORDINANCE, SHALL BE GUILTY OF A MISDEMEANOR AND ASSESSED A FINE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 155.999 OF SAID CODE OF ORDINANCE AND THAT EACH DAY ANY SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; CONTAINING SAVINGS CLAUSES; CONTAINING A SEVERANCE CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER THIS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

WHEREAS, the City of Freeport, Texas ("the City"), is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Subchapter A of Chapter 211 of the Local Government Code of Texas and Item (g) of Section 3.07 of the Home Rule Charter of the City authorizes the City Council thereof to adopt the provisions of this Ordinance; and,

WHEREAS, the City Council of the City has determined and does here now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of the City and is necessary to provide clarification of the meanings of "open space" and "greenbelt."

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS:

SECTION ONE--Findings of Fact and Conclusions of Law.

The City Council of the City makes the following findings of fact and conclusions of law, viz:

First, that the public hearings required by the Zoning Enabling Act of the State of Texas, codified as Chapter 211 of the Texas Local Government Code, and the present Comprehensive Zoning Ordinance of the City, codified as Chapter 155 of the Code of Ordinances of the City, have been conducted in the manner and at the time required.

Second, that not less than fifteen (15) days prior to the date of such hearings, public notice thereof was published once in the Brazosport Facts, a newspaper of general circulation in and the official newspaper of the City, stating the date, time and place of such hearings.

Third, that after considering evidence submitted at such hearings, the City Council of the City is of the opinion and finds that the changes in the comprehensive zoning ordinance of the City set forth below will enable the City Council and the Planning Commission thereof to ---.

Fourth, that the health, safety, morals and general welfare of the inhabitants of the City will best be served by the adoption of this ordinance making the changes in zoning regulations hereinafter mentioned.

SECTION TWO--Comprehensive Zoning Ordinance Amended

The Comprehensive Zoning Ordinance of the City of Freeport, Texas, read, passed and approved as Ordinance No. 1100 on the 3rd day of April, 1964, and now codified as Chapter 155 of the Code of Ordinances thereof, hereinafter called "the Zoning Ordinance," is hereby amended as follows:

There is hereby added to Section 155.002 of the Zoning Ordinance, in alphabetical sequence, the following additional definitions:

"Open Space is any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open Space can include: Greenspace (land that is partly or completely covered with grass, trees, shrubs or other vegetation.)"

"Greenbelt is an open space of landscaped or undeveloped land, usually surrounding a residential area and designated by easement covenant, deed restriction or zoning ordinance that prohibits development (construction of buildings or other elevated structures) in that area."

SECTION THREE--Ratification and Confirmation.

The City Council of the City of Freeport, Texas, hereby ratifies and confirms any and all action taken by the Planning Commission of said City or the City Council of said City, or both, in connection with the change in zoning classification evidenced by this ordinance, including but not limited to the calling of a public hearing required by said Zoning Enabling Act and the Zoning Ordinance, the giving of public notice of such hearings, the giving of written notice to the owners of property which is the subject of such and to the adjoining property owners, the making of preliminary and final reports with respect to such change and the conducting of the public hearings required by said Act and the Zoning Ordinance.

SECTION FOUR--Penalty

Any person violating the Zoning Ordinance, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefor assessed a fine as prescribed in Section 155.999 of said ordinance; and each day such violation occurs and each day such violation continues shall constitute a separate offense.

SECTION FIVE--Savings Clauses

(a) Nothing contained in this ordinance shall cause any rights heretofore vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

(b) This ordinance is cumulative of and in addition to all other ordinances of the City on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this ordinance and another ordinance conflict or overlap, this ordinance shall prevail.

(c) No offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

SECTION SIX--Severance Clause.

In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

SECTION FIVE--Effective Date.

This ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts, the official newspaper of the City.

READ, PASSED AND ADOPTED this _____ day of _____, 2017.

Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Munoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw, City Attorney
City of Freeport, Texas

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Charter Provision Section 3.02

VALID ENFORCABLE CHARTER SECTION AS OF

MAY 12, 2012

ARTICLE 3. THE GOVERNING BODY

SECTION 3.01. NUMBER, SELECTION, AND TERM.

(a) The legislative and governing body of the City of Freeport, Texas, shall be known as "The City Council of the City of Freeport, Texas" and shall be composed of a Mayor and four (4) council members. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of Military Law but shall have no regular administrative duties. The Mayor must vote on all matters under consideration by the City Council, except as provided in Section 3.10 of this Charter. The Mayor shall not have the power of veto.

(b) The Mayor shall be elected from the City of Freeport at large for a two (2) year term at an election to be held in each of the hereinafter designated single member districts or wards on the first Saturday of May in each odd numbered year beginning in 1993.

(c) The City of Freeport shall be divided into four (4) single member council districts or wards designated as Wards A, B, C, and D. The resident voters of each single member district or ward shall be entitled to elect one council member from the district or ward wherein they reside. Any qualified candidate desiring to run for election to a position on the City Council from the district or ward wherein such candidate resides shall announce his or her candidacy for such position and file for election to such position in the manner required by this Charter and the Texas Election Code.

(d) The members of the City Council shall serve a two year term each, with an election being held for council members from Wards A and C in May of each even numbered year and from Wards B and D in May of each odd numbered year.

(e) All members of the City Council shall be subject to removal from office under the terms and conditions of the recall provisions of this Charter. (Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-24-04)

SECTION 3.02. QUALIFICATIONS.

The Mayor and each member of the City Council shall be a registered voter and a resident citizen of the City of Freeport for at least twelve (12) consecutive months and, in the case of members of City Council other than the Mayor, a resident of the Ward sought to be represented for at least six (6) consecutive months, immediately preceding his or her application to have his or her name placed on the official ballot and the filing of proof of his or her qualifications as required by law. Provided, however, such residence within any territory annexed to the City of Freeport immediately preceding such annexation shall be counted as residence within the City. If any such officer shall fail to maintain the foregoing residence qualifications during his or her term of office or shall be absent from three (3) consecutive regularly scheduled meetings without a valid excuse, or fail to attend at least eighty (80%) of regularly scheduled meetings during any fiscal year, without a valid excuse, the City Council must at its next regularly scheduled meeting declare a vacancy to exist and shall fill such vacancy as set forth in Section 3.06 of this Charter.

(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

SECTION 3.03. COUNCIL TO BE JUDGE OF ELECTION AND QUALIFICATION.

The City Council shall be the judge of the election and qualification of its own members and other elected officials of the City.

Charter Provision Section 3.02

IN CONFLICT WITH STATE LAW

**(NOTE: STATE LAW REVERTS BACK TO PREVIOUS LEGAL
CHARTER PROVISION OF THE SAME AREA OF CONFLICT)**

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(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12; Amendment adopted by electorate 5-16-16)

HOME RULE CHARTER OF CITY OF FREEPORT

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TEXAS ELECTION CODE

§ 141.003. Age and Residence Requirements for Home-Rule City Office

(a) Different age and residence requirements from those prescribed by Section 141.001 may be prescribed by a home-rule city charter, but a minimum age may not be more than 21 years and a minimum length of residence in the state or city may not be more than 12 months immediately preceding election day.

(b) A charter provision is void if it prescribes a minimum age requirement of more than 21 years or a minimum length of residence requirement of more than 12 months

If above charter provision is void, then revert to previous charter provision which did not distinguish between Mayor and other City Council members and set residence requirement at six (6) months.

PREVIOUS CHARTER PROVISIONS

SECTION 3.01 NUMBER, SELECTION AND TERM.

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MAY 12, 2012

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(d) The members of the City Council shall serve a two year term each, with an election being held for council members from Wards A and C in May of each even numbered year and from Wards B and D in May of each odd numbered year.

(e) All members of the City Council shall be subject to removal from office under the terms and conditions of the recall provisions of this Charter.

(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-24-04)

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