

City of Freeport

NOTICE OF PUBLIC MEETING
THE FREEPORT CITY COUNCIL
MONDAY, SEPTEMBER 12TH, 2011, 6:00 P.M.
MUNICIPAL COURT ROOM
FREEPORT POLICE DEPARTMENT, 430 NORTH BRAZOSPORT BLVD.
AGENDA
FORMAL SESSION

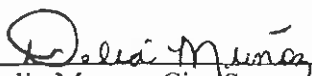
1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Consideration of approving the September 6th, 2011 Council Minutes.
Pg. 568-572
5. Attending citizens and their business.
6. **Public Hearing** – Proposed budget for fiscal year 2011-2012. Pg. 573
7. Consideration of approving Ordinance No. 2011-2286 adopting a budget for the fiscal year 2011-2012 for the City of Freeport. Pg. 574-577
8. Consideration of approving a Road & Bridge Interlocal Agreement for fiscal year 2012 with Brazoria County and the City of Freeport for rehabilitation of streets.
Pg. 578-583

Adjourn

NOTE: 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 American with Disabilities Act, the City of Freeport will provide for reasonable accommodations for persons attending City Council Meetings. Requests should be received 48 hours before the meeting. Please contact the City Secretary at 979-233-3526.

I, Delia Muñoz, City Secretary, for the City of Freeport, Texas certify that this agenda was posted on the official bulletin board/glass door of City Hall, facing the rear parking lot of the building, with 24 hours a day public access, 200 W. 2nd Street, Freeport, Texas, September 9th, 2011 at or before 5:00 a.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 the City of Freeport met on Tuesday, September 6th, 2011 at 6:00 p.m., at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, for the purpose of considering the following agenda items:

City Council:

Norma Moreno Garcia
Michelle Kent
Fred Bolton – Absent
Nicolosa Mireles
Sandra Barbree

Staff:

Jeff Pynes, City Manager
Gilbert Arispe, Administrative Asst.
Wallace Shaw, City Attorney
Delia Munoz, City Secretary
Nat Hickey, Property Manager
Larry Fansher, Parks Director
Brian Davis, Fire Chief
Ty Morrow, Police Chief
Bob Welch, Finance Director
Kola Olayiwola, Building Official

Planning Commission:

Edward Garcia – Absent
Reuben Cuellar
Jesse Aguilar
Toby Davenport
Eddie Virgil

Visitors:

Jim Pirrung	Dorothy Pirrung
Margaret Pollard	Joyce Adkins
Wright Gore, Jr.	Paula Hammond
Jack Reid	Daniel Woodley
Eva Woodley	Estella Gomez
Margorie Clark	Annette Sanford
Bertha Kelly	Brenda Laird
John Hoss	Bobby Bass
Candelaria Gomez	Victoria Castenda
Melanie Oldham	Lila Lloyd
Manning Rollerson	Walker Royall

Call to Order.

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

Invocation.

Wallace Shaw offered the invocation.

Pledge of Allegiance

Mayor Norma Garcia led the Pledge of Allegiance.

Consideration of approving the August 15th, & August 30th, 2011 Council Minutes.

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved August 15th & August 30th, 2011 Council Minutes.

Attending citizens and their business.

There were none

Joint Public Hearing: The City Council and the Planning Commission of said City will consider whether or not the Comprehensive Zoning Ordinance and Map of said City, codified as Chapter 155 of the Code of Ordinances of said City, should be amended to add a new zoning district, to be called W-4 Marina District, and whether or not the zoning classification of all of the land located North of Second Street, East of Cherry Street, West of Terminal Street and South of the centerline of the Old Brazos River should be changed to W-4 Marina District.

There being a quorum with the Planning Commission the Mayor opened the Joint Public Hearing at 6: 03 p.m.

Edward Garcia, Chairperson for the Planning Commission was absent, Tobey Davenport spoke in his behalf. The purpose of the Joint Public meeting is to introduce and recommend a new Marina Zoning District (W-4) in the Old Brazos River.

Kola Olayiwola, Building Official presented to Council and audience a Power Point presentation of the proposed W-4 zoning category that would create the best type managed growth for the marina, vision for the Marina Zoning District, geographic boundary of the marina area, existing zoning categories of C-2, W-2, M-1, establishing the theme for the marina area, and a new zoning category (W-4) as proposed and recommended by the Planning Commission.

Jeff Pynes asked what happens to an existing house in a W-4 zone. Mr. Kola stated that it's a non-conforming structure and is grandfathered.

Toby Davenport read out the marina definition that will be used in the proposed ordinance; "Marina a dock or basin providing secured moorings for pleasure boats offering supply, repair and other facility".

Joyce Adkins asked why the proposed zone didn't fit the Bridge Harbor Marina and why should anybody want to purchase a business or property goes through the process of a Specific Use Permit and what if it didn't suit the City, it would be difficult to sell. The city would be in control of all the marina district. She opposed the new propose W-4 zoning, thought it was a terrible idea.

Walker Royall voiced his opinion and didn't think that putting restrictions on properties was a good idea. The parking ratio is unnecessary and onerous. One parking space for very 100 ft. would restrict your ability to develop certain businesses. Having to go before the City for a Specific Use Permit was cumbersome for someone who wants to buy or sell property.

Margaret Pollard, an attorney from Houston was present to represent Western Seafood and Western Shell Fish.

Wright Gore, Jr stated his business is in the commercial shrimping business. The City spend the last 6 years trying to take his property by eminent domain and now the City is trying to rezone his property. A lot of time and effort, and tax payers money was spend in the process of taking his property, a thinly veiled effort to revive the city's failed eminent domain policy. He said it was ridiculous situation.

Scott Glick and his brothers have vacant lots in the marina district and asked if the new zone would require to plant flowers or palm trees. He also asked if housing was prohibited in the area and that no consideration was given to the people that are already there.

A lady was present and stated that she had 2 small houses on 2nd Street and asked if they would be grandfathered. Mr. Kola answered her yes, unless she turned the houses into a business, she would need to apply for a Specific Use Permit.

Eva Woodley stated that her home is in the marina district and asked if she needed to come before the city for any upgrades or improvements. Mr. Kola said yes.

Tobey Davenport spokesman for the Planning Commission recommended to Council, that the new propose marina zone W-4 be withdrawn for more research.

The Planning Commission adjourned at 6:40 p.m. There being no more questions or comments, Mayor Garcia closed the Joint Public Hearing at 6:40 p.m.

Consideration of approving Resolution No. 2011-2267 authorizing local funds commitment for disaster recovery non-entitlement grant contract # DRS210246 with the State of Texas General Land Office.

On a motion by Councilwoman Mireles, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved Resolution No. 2011-2267 authorizing local funds commitment for disaster recovery non-entitlement grant contract # DRS210246 with the State of Texas General Land Office.

Consideration of granting a Sign and Led variance to Little Caesars 1823 N. Brazosport Boulevard, Freeport Texas.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council unanimously approved granting a Sign and Led variance to Little Caesars, 1823 N. Brazosport Boulevard, Freeport, Texas.

Consideration of setting September 12th, 2011 as the date for a Public Hearing on the proposed budget for the fiscal year 2011-2012.

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent with all present voting "aye", Council unanimously approved setting September 12th as the date for a Public Hearing on the proposed budget for the fiscal year 2011-2012.

Consideration of setting September 19th, 2011 as the date to adopt a tax rate of 0.680000 with an maintenance and operations rate of \$0.520739 and an interest and sinking rate of \$0.159261 for fiscal year 2011-2012.

On a motion by Councilwoman Barbree, seconded by Councilwoman Mireles, with all present voting 3 to 1, Council approved setting September 19th, as the date to adopt a tax rate of 0.680000 with an maintenance and operations rate of \$0.520739 and an interest and sinking rate of \$0.159261 for fiscal year 2011-2012. Councilwoman Kent opposed.

Consideration of designating a representative and an alternate to the Houston- Galveston Area Council 2012 General Assembly.

On a motion by Councilwoman Mireles, seconded by Councilwoman Kent, with all present voting, "aye", Council unanimously approved designating Councilwoman Barbee to the Houston-Galveston Area Council 2012 General Assembly and naming Councilman Bolton as an alternate.

Consideration of authorizing the City Manager to sign an Amendment Number Two further extending the Industrial District Agreements with Dow & BASF.

On a motion by Councilwoman Kent, seconded by Councilwoman Barbree, with all present voting "aye", Council approved authorizing the City Manager to sign an

Amendment Number Two further extending the Industrial District Agreements with Dow & BASF. Councilwoman Mireles abstained from voting in this matter.

Adjourn

On a motion by Councilwoman Barbree, seconded by Councilwoman Kent, with all present voting “aye”, the meeting adjourned at 6:50 p.m.

Mayor Norma Moreno Garcia

City Secretary – Delia Munoz

NOTICE OF PUBLIC BUDGET HEARING

BE IT KNOWN that on Monday, September 12, 2011, beginning at 6:00 o'clock, p.m., the City Council of the City of Freeport, Texas, will conduct a PUBLIC HEARING at the Police Department Municipal Courtroom of the City of Freeport, Texas, located therein at 430 North Brazosport Boulevard, on the PROPOSED BUDGET of the City for the FISCAL YEAR 2011-2012, which may be EXAMINED on request at the Office of the City Manager, 200 West Second Street, Freeport, Texas 77541, during normal business hours. WRITTEN COMMENTS concerning the budget must be mailed to arrive at or be delivered in person to the office of the City Manager at such office prior to 5:00 p.m. on the day of such hearing. VERBAL COMMENTS will be accepted at the time of the hearing.

Delia Muñoz, City Secretary
City of Freeport, Texas

NOTE: Publish once at least fifteen (15) days before
the date of the hearing.

ORDINANCE NO. 2011-2286

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; MAKING FINDINGS OF FACT; ADOPTING A BUDGET FOR THE FISCAL YEAR 2011-2012 FOR THE CITY; PROVIDING FOR THE FILING THEREOF; PROVIDING A SEVERANCE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Freeport, Texas, (hereinafter sometimes "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, Article 9 of the Home Rule Charter of the City requires the adoption of an annual budget; and,

WHEREAS, under Section 102.001(b) of the Local Government Code, because the City has a city manager form of government, the city manager is the budget officer of the City municipality and under Section 102.002 of said Code and Chapter 9 of said Charter, the city manager is required to prepare a proposed annual budget for the municipality and, under Section 102.03(a) of said Code and Chapter 9 of said Charter, is required to file the same with the city secretary before the 30th day before the date the governing body of the municipality makes its tax levy for the fiscal year; and,

WHEREAS, under Chapter 9 of said Charter, the governing body of the municipality is required to adopt a budget not later than fifteen (15) days prior to the beginning of the fiscal year; and,

WHEREAS, under Section 102.006(a) and (b) of the Local Government Code and Chapter 9 of said Charter, the governing body of the municipality is required to conduct a public hearing on such proposed annual budget; and

WHEREAS, under Section 102.006^o of the Local Government Code and Chapter 9 of said Charter, public notice of the date, time and location of such hearing must be given, under Section 102.0065^o and Section 102.011 of said Code the provisions of said Charter control as to the method of giving such notice and under Chapter 9 of said Charter said notice must be published at least 15 days before the date of such hearing in the official newspaper of the City; and,

WHEREAS, under Section 102.006(b) of the Local Government Code, the public hearing on the proposed annual budget must be held before the date the governing body makes its tax levy for the fiscal year covered by such budget, under Section 102.007^o of said Code and Chapter 9 of said Charter, at the conclusion of such hearing, the governing body must take action on such proposed annual budget and under Section 102.009(a) of said Code and Chapter 9 of said Charter, the governing body of the City may levy taxes only in accordance with such budget.

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

SECTION ONE (1) - Findings of Fact

In connection with the adoption of the 2008-2009 ANNUAL BUDGET, the City Council hereby makes the following findings:

(1) The proposed budget for the City's Fiscal Year 2011-2012, a copy of which is attached hereto as Exhibit "A", is the result of several workshop meetings, each of which were conducted in accordance with and notice of each of which was given in the manner required by the Texas Open Meetings Act, now codified as Chapter 551 of the Government Code.

(2) On the 14th day of July, 2011, the City Manager filed with the City Secretary the original of such proposed annual budget.

(3) A public hearing on such proposed budget was held on the 12th day of September, 2011, beginning at 6:00 p.m., in the Municipal Courtroom of the Police and Courts Building of the City of Freeport, Texas, located therein at 430 Brazosport Boulevard.

(4) Notice of such hearing was published in the Brazosport Facts, the official newspaper of the City, on the 28th day of August, 2011.

(5) This ordinance is being adopted at the conclusion of such hearing and on the same date as the date on which such hearing was held.

(6) The contingent appropriations in such budget do not exceed three percent (3%) of the total budget appropriations.

(7) The estimated expenditures of the General Fund and Debt Service Fund stated in such budget do not exceed total estimated resources of each fund.

SECTION TWO (2) - Proposed Annual Budget Adopted; Appropriations

The PROPOSED ANNUAL BUDGET for the City's FISCAL YEAR 2011-2012, in its complete form, as heretofore filed with the City Secretary, and with any changes thereto made following such workshop meetings and the public hearing mentioned above, attached hereto and made a part hereof as Exhibit "A", is hereby ADOPTED, and the several amounts set forth therein as proposed expenditures are hereby APPROPRIATED to and for the objects and purposes therein specified.

SECTION THREE (3) - Filing of Copies

A copy of this ordinance and of the attached complete copy of such budget, attached hereto as Exhibit "A", shall be filed with the City Secretary of the City of Freeport, Texas and shall be maintained with the official records of the City. Certified copies thereof shall be filed by the City Secretary with the County Clerk of Brazoria County, Texas and the office of the State Comptroller of Public Accounts for the State of Texas.

SECTION FOUR (4) - Severance Clause

Any section or provision of this ordinance found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction 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 (5) - Effective Dates

This ordinance shall be effective from and after its passage and the annual budget adopted hereby shall be in effect for the Fiscal Year of the City beginning October 1, 2011, and ending September 30, 2012.

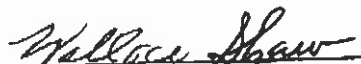
PASSED AND ADOPTED this ____ day of _____, 2011.

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

C:\Freeport.Ord\2011-2012-Bud-Ord

GERALD L. ROBERTS, P.E.
COUNTY ENGINEER

MICHAEL C. SHANNON, P.E.
ASSISTANT COUNTY ENGINEER



(979) 864-1265
(979) 388-1265
(281) 756-1265
(979) 864-1270

ANGLETON
CLUTE
HOUSTON
FAX

BRAZORIA COUNTY
451 N VELASCO, SUITE 230
ANGLETON, TEXAS 77515

August 29, 2011

Re: Road & Bridge Interlocal Agreement Fiscal Year 2012

Dear Mayor:

Enclosed, please find two "original" Interlocal Agreements approved by Commissioners' Court and signed by Brazoria County Judge Joe King, covering construction, improvement, maintenance, or repair activities on streets or alleys within your municipality during Brazoria County's Fiscal Year (FY) 2012, which begins October 1, 2011. Upon approval of the Interlocal Agreement by action of your City Council, **please have your Mayor sign and return one fully executed original to the attention of Sherri Stanford before October 1, 2011.**

In addition, please complete and return the enclosed Project Request, listing all "major" projects for which you are requesting labor and equipment from Brazoria County Road and Bridge during FY-12.

Each request submitted requires the approval of your Mayor. It is very important for our Superintendent to be involved in the negotiation and planning process with your Administration as to some level of work the County can accomplish for you. **Please return your completed Project Request to the attention of Sherri Stanford before December 15, 2011.**

We are encouraging you to consider that the County would prefer to do overlays only for "road construction". Doing sub-base, base, and stabilization of road materials is quite time consuming and ties up many of our resources that we need to be using on other county jobs.

The County Road and Bridge Act authorizes a Commissioners' Court to expend county funds and utilize county equipment to do road and street work within incorporated cities and towns, provided the governing body of the city or town consents, and it does not interfere with county road and bridge projects. Therefore, work under this interlocal agreement must be initiated by submitting a written request signed by your Mayor to the Engineer's Office. If such work is determined to be a benefit to the County by Commissioners' Court, work will be performed as quickly as our Road

Superintendent is able to schedule in coordination with other projects and commitments.

If unexpected projects come up during the year, please follow the same process of involving our appropriate Service Center Road Superintendent prior to submitting a written request to Brazoria County Engineering.

It is not necessary to involve the Superintendent in the planning process for driveways to be set, or pothole patching. However, in order to better serve your needs please list location, name, and contact number of the person requesting the work. Culverts should be on site with area staked out. The County will assist in spreading material providing the material is on site prior to our arrival to perform the work.

Cities are responsible for all material (road material, patching material, signs, culverts, etc.) and may purchase through the County's suppliers providing they have a "separate" interlocal agreement with the Brazoria County Purchasing Department to do so.

Cities will be invoiced for material depleted from County Road and Bridge Department inventory.

If you have any questions, please contact Sherri Stanford at (979)864-1865.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald L. Roberts". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gerald L. Roberts, P.E.
County Engineer

GR/ss
Encl.

to the County by Commissioners' Court. The City will provide materials, including fuel used by the equipment for these projects. All such materials shall be paid for by the City, and may be purchased through the County's suppliers. The City shall reimburse the cost of any work performed or obtained by the County, which is determined to be beyond the scope of this agreement, to the County.

1.2 The county work authorized by this AGREEMENT may be done:

- (1) By the County through use of county equipment;
- (2) By an independent contractor with whom the County has contracted for the provision of certain services and materials, conditioned on the City providing a purchase order to such independent contractor for the full amount of such services or materials.

1.3 During the term of this AGREEMENT when County work is requested, the Mayor of the City shall submit a request in writing to the County Engineer. The County Engineer and the Mayor of the City shall agree in writing as to the location and type of assistance to be provided pursuant to this AGREEMENT. It is expressly understood between the parties that the County shall have no authority or obligation to provide any service or work on any city street or alley not so agreed to in writing. The County Engineer is authorized to sign an acceptance statement for each project at the appropriate time and authorize the work subject to be completed as the Road and Bridge Department schedules permit.

1.4 The parties intend that the County in performing such services shall act as an independent contractor and shall have control of the work and the manner in which it is performed. The County shall not be considered an agent, employee, or borrowed servant of the City.

1.5 For and in consideration of the above agreement by the County, the City agrees to provide all warning and safety signs and other safety protections as required when such work is being performed by the County.

1.6 The parties further agree that such work and materials are provided by the County without warranty of any kind to the City or any third party, and that the County has no obligation to provide any supplemental warranty work after a project's completion. The City agrees to provide any engineering or design work required for work done pursuant to this agreement.

II.

2.0 To the extent authorized by law, the City hereby agrees to hold harmless the County, its officers, agents and employees from any and all loss, damage, cost demands or causes of action of any nature or kind for loss or damage to property, or for injury or death to persons, arising in any manner from the performance of the above-referenced work.

2.1 Payment for services or materials under this agreement shall be payable from current revenues available to the paying party.

III.

3.0 Either party may terminate this agreement upon thirty- (30) day's written notice to the other party.

3.1 Nothing herein shall be construed to make either party a purchaser or consumer of goods or services from the other.

3.2 Nothing herein shall be construed to create any rights in third parties.

SIGNED AND ENTERED this the 24 day of August, 2011.

BRAZORIA COUNTY, TEXAS

CITY OF FREEPORT, TEXAS



By: Joe King
Brazoria County Judge

By: Mayor

ATTEST:

CITY SECRETARY