

**CITY OF FREEPORT
PLANNING COMMISSION
Tuesday, September 29, 2015, 6:00 P.M.
Freeport Police Department, Municipal Courtroom
430 North Brazosport Boulevard
Freeport, Texas**

AGENDA

Edward Garcia, Chairman
Tobey Davenport
Royce McCoy

Lesa Girouard
Eddie Virgil

NOTICE is hereby given that the Planning Commission of the City of Freeport, Texas will meet in a regular meeting on **Tuesday, September 29, 2015 at 6:00 P.M.** at the Freeport Police Department, Municipal Courtroom, 430 North Brazosport Boulevard, Freeport, Texas to discuss the following:

1. Open Meeting.
2. Invocation.
3. Approval of the minutes for September 1, 2015, meeting.
4. Consider and discuss authorizing a 4 way Stop Sign at the intersection of Ave. A & Velasco Boulevard .
5. Consider and discuss Resolution No. 2015-2471 and setting a Joint Public Hearing with the City Council to consider amending the zoning ordinance to add regulations for a non-regulated nightclub.
6. Consider and discuss requirements for minimum square footage for a residential home.
7. Adjourn.

NOTE: ITEMS NOT NECESSARILY DISCUSSED IN THE ORDER THEY APPEAR ON THE AGENDA. THE PLANNING COMMISSION, AT ITS DISCRETION, MAY TAKE ACTION ON ANY OR ALL OF THE ITEMS LISTED.

I, Delia Munoz, City Secretary, City of Freeport, Texas, hereby 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-hour access at 200 West 2nd Street, Freeport, Texas on or before **Friday, September 18, 2015 at 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 Planning & Traffic Commission of the City of Freeport met on Tuesday, September 1, 2015 at 6:00 p.m. at the Freeport Police Department, Municipal Courtroom, 430 North Brazosport Boulevard, Texas for the purpose of considering the following agenda items:

Planning Commission:

Edward T. Garcia – Chairman
Tobey Davenport
Royce McCoy – Absent
Lesa Girouard
Eddie Virgil

Staff:

Wallace Shaw, City Attorney
Delia Munoz, City Secretary
Chris Motley, Fire Marshall/Building Official

Visitors:

Councilman Larry McDonald
Dail Ballard
Esther Williams
Pastor Winston Rossow
Deborah Rossow
Lila Lloyd
Theresa Jackson
Charlotte Heard
Pastor Donnell Johnson

Open Meeting.

Edward T. Garcia called the meeting to order at 6:00 p.m.

Invocation

Wallace Shaw offered the invocation.

Approval of the minutes for July 28, 2015, 2015 meeting.

On a motion by Eddie Virgil, seconded by Tobey Davenport, with all present voting "Aye", the Minutes of July 28, 2015 were unanimously approved.

Consider and discuss restriping and signage on West 8th Street, from Velasco Boulevard to State Hwy. 288.

Tobey Davenport commented that West 8th Street is a very busy street and not wide enough to accommodate parking. He suggested no parking zone on both sides of the street, or alternate parking. Tobey Davenport suggested 8th Street to Hwy 288 be a no parking on the street.

Councilman McDonald stated that families and holidays would be a problem for residences that park on 8th Street.

Lesa Girouard suggested having parking on one side of the street, instead of no parking.

On a motion by Lesa Girouard, seconded by Eddie Virgil, with all present voting "Aye", the Planners unanimously approved to reagendaed this item for further review.

Consider and discuss manufactured housing ordinance.

Chairman Edward T. Garcia stated that there is manufactured housing on Navigation and West 8th Street and this area is not zoned for manufactured housing.

Chris Motley addressed the Planners on the differences of manufactured homes and modular homes. The homes on Navigation and West 8th are not considering manufactured. They are properly zoned.

Lesa Girouard asked for the duration of a temporary permit. She asked for clarification of temporary.

Consider and discuss on RV Parks.

Chris Motley presented the Planners with other cities RV requirements.

Mr. Shaw discussed with the Planners that a RV park needed a Specific Use Permit in a particular area.

Lesa Girouard asked what the "City's long term plan on RV's".

On a motion by Tobey Davenport, seconded by Lesa Girouard, with all present voting "Aye" the Planners approved to reagendaed this item for a future meeting.

Consider and discuss authorizing a 4 way Stop Sign at the intersection of Cherry and Second Street.

On a motion by Tobey Davenport, seconded by Eddie Virgil, with all present voting "Aye" the Planners unanimously approved authorizing a 4 way Stop Sign at the intersection of Cherry and Second Street.

Consider and discuss a request from the Martin Luther King Committee to rename Second Street; or another street to Martin Luther King Boulevard.

On behalf of the Martin Luther King Jr. Celebration Committee, Theresa Jackson requested a street name change. The street in request is the entire length of Second Street, in Freeport Texas. The historical name requested is: Martin Luther King Jr. Blvd.

Chairman Edward T. Garcia spoke to people in the community and officials on renaming Second Street, and the main concern is the Brazosport High School and businesses on Second Street, and the expense of the name change. He mentions other street options like Ave. B, Skinner and Cherry Street.

Eddie Virgil mentioned that a church member and friend Hallard Fields who was deceased wanted to have Gulf Blvd named Martin Luther King Boulevard. Chairman Garcia stated that the City of Freeport did not have jurisdiction on Gulf Boulevard, it was state maintained.

Chairman Garcia suggested Cherry Street, because it would be intersecting with Highway 36 and Second Street, right in front of City Hall. It would have less financial impact on the citizens of Freeport.

Tobey Davenport respected all the contributions that Martin Luther King Jr. had accomplished and concurred with Chairman Edward T. Garcia that Cherry Street be renamed.

On a motion by Tobey Davenport, seconded by Eddie Virgil, with all present voting "Aye", the Planners unanimously approved Cherry Street be renamed to Martin Luther King Jr. Blvd, and that this item be placed before City Council.

Consider and discuss recommending to City funding for a Master Plan for the City of Freeport.

Edward T. Garcia stated that the City Manager was working on a redeveloping plan, not a full Master Plan.

On a motion by Tobey Davenport, seconded by Eddie Virgil, with all present voting "Aye" the Planners approved that a meeting be scheduled with the City Manager and Economic Development for input on the Master Plan.

Consider and discuss not allowing parking in front yards or on un-improved surfaces.

No action taken

Adjourn.

Edward T. Garcia adjourned the meeting at 7:05 p.m.

Chairman Edward T. Garcia
City of Freeport, Texas

Delia Munoz, City Secretary
City of Freeport, Texas

RESOLUTION NO. 2015-2471

A RESOLUTION OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CONTAINING DEFINITIONS; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; DECLARING THAT THE OPERATION WITHIN SAID CITY OF A NON-REGULATED NIGHT CLUB AT 127 WEST SECOND STREET DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY WOULD CREATE A PUBLIC NUISANCE; AND DECLARING A MORATORIUM ON THE ISSUANCE OF CERTIFICATES OF OCCUPANCY AND OTHER PERMITS FOR SUCH USE AT SUCH LOCATION, OR ELSEWHERE WITHIN THE CITY, THAT DO NOT EXCLUDE OPERATION AS A NON-REGULATED NIGHT CLUB DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY; AND PROHIBITING SUCH USE DURING ANY PERIOD OF TIME BETWEEN 2:00 A.M. AND 7:00 A.M. ON THE SAME DAY AT SUCH LOCATION OR ELSEWHERE WITHIN SAID CITY, PENDING CONSIDERATION AND ADOPTION OF AN APPROPRIATE AMENDMENT TO THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY TO REMEDIATE SUCH NUISANCE; DIRECTING THE BUILDING OFFICIAL OF THE CITY TO REFRAIN FROM ISSUING ANY SUCH CERTIFICATES OR PERMITS THAT DO NOT EXCLUDE OPERATION AS A NON-REGULATED NIGHT CLUB DURING ANY PERIOD OF TIME BEGINNING AT 2:00 A.M. AND ENDING AT 7:00 A.M. ON THE SAME DAY UNTIL FURTHER ORDERS OF THE CITY COUNCIL; DIRECTING THE PLANNING COMMISSION OF THE CITY TO STUDY AND REPORT TO THE CITY COUNCIL ITS RECOMMENDATION REGARDING SUCH AMENDMENT OF THE ZONING ORDINANCE; CONTAINING A SEVERANCE CLAUSE; PROVIDING THAT THIS RESOLUTION SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION; PROVIDING THAT THE ORIGINAL OF THIS RESOLUTION SHALL BE MAINTAINED BY THE CITY SECRETARY IN THE PERMANENT RECORDS OF SAID CITY; AND DIRECTING THE CITY SECRETARY TO CAUSE A COPY OF THE CAPTION TO THIS RESOLUTION TO BE PUBLISHED TWICE IN THE BRAZOSPORT FACTS.

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 Texas Constitution and Section 1.005 of the Local Government Code, respectively; and,

WHEREAS, Sections 51.072, 54.001, 54.004 and Chapters 211, 214 and 217 of the Local Government Code and Sections 2.01, 2.02, Items (g) and (u) of Section 3.07 and Section 8.03 of the Home Rule Charter of the City authorize the City Council thereof to adopt the provisions of this Resolution; and,

WHEREAS, the City Council of the City has determined and does here now declare that the adoption of this resolution is necessary to the health, safety and general welfare of its inhabitants and persons sojourning with the City during the hours mentioned above.

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

First, as used in this resolution, the following phrase shall have the following meaning:

NON-REGULATED NIGHT CLUB. A Night Club that sponsors or permits any event or activity involving alcohol which is not regulated by the Texas Alcoholic Beverage Commission between the hours of 2:00 a.m. and 7:00 a.m. on the same day if such club has or is required by the Code of Ordinances of the City to have any of the following: (1) a sound amplification permit, (2) a dance hall permit, or (3) a coin-operated machine on which a tax is required to be paid.

Second, the City Council of the City (the City Council) makes the following findings of fact and conclusions of law:

(1) The City Council is expressly authorized to determine, declare and abate nuisances and to prevent disorderly conduct within the City by Sections 2.01, 2.02, Items (g) and (u) of Section 3.07 and Section 8.03 of its Home Rule Charter and pursuant to Chapter 217 of the Texas Local Government Code.

(2) The City Council finds that the Texas Alcoholic Beverage Commission does not regulate the consumption of alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same day on any premises for which a license or permit has not been issued by such commission for the sale or consumption of alcoholic beverages on such premises during other hours of such day.

(3) The City Council finds that a Non-Regulated Night Club, as defined above, is being operated on the premises located within the City at 127 West Second Street between the hours of 12:00 a.m. and 2:00 a.m. on the same day and would like to extend its hours of operation from 2:00 a.m. to 4:00 a.m. on the same day.

(4) The City Council finds that such Club does not have a license or permit issued by the Texas Alcoholic Beverage Commission to sell or permit the consumption of alcoholic beverages on the premises located within the City at 127 West Second Street during any portion of the day for which a license or permit may be obtained.

(5) The City Council finds that officers of the City's Police Department have been called to answer disturbance calls at or near such location numerous times during the current year between the hours of 2:00 a.m. and 7:00 a.m. of the same day, some of which involved various forms of disorderly conduct, which creates a public nuisance, which is caused or worsened by the availability of alcohol.

(6) The concern over such disorderly conduct within the City is a legitimate health and safety issue which demands reasonable regulation of Non-Regulated Night Clubs, as defined above, within the City at any time between the hours of 2:00 a.m. and 7:00 a.m. on the same day in order to remediate such nuisance, maintain public peace and order and protect the health and well-being of inhabitants of and persons sojourning within the City.

(7) Because the operation of a Non-Regulated Night Club at 127 West Second Street between the hours of 12:00 a.m. and 2:00 a.m. on the same day has resulted in or worsened various forms of disorderly conduct at or near such location, a public nuisance has been created.

(8) The amendment of the City's zoning ordinance to prohibit the use of any land within the City for the operation of a Non-Regulated Night Club at any time between the hours of 2:00 a.m. and 7:00 a.m. on the same day, when the consumption of alcohol is not regulated by the Texas Alcoholic Beverage Commission, is a legitimate and reasonable means of remediating the nuisance created or that could be worsened by the consumption of alcohol within the City during such hours at or near such location or any other location within the City.

(9) The City Council does not intend to suppress speech or other activities protected by the First Amendment, but to enact an ordinance prohibiting the consumption of alcohol at Non-Regulated Night Clubs, as defined above, during the time of day when the consumption of alcohol is not allowed at businesses having a license or permit from the Texas Alcoholic Beverage Commission.

(10) The City Council finds that the Planning Commission of the City should be requested to begin consideration of an amendment to the Comprehensive Zoning Ordinance of the City which would prohibit the use of any land or building within the City for the operation of a Non-Regulated Night Club, as defined above, at any time between during the hours of 2:00 a.m. and 7:00 a.m. on the same day.

(11) The City Council finds that the process described in Item (10) above has not yet begun and to begin such process and complete the amending of the Comprehensive Zoning Ordinance of the City will take approximately sixty (60) days.

(12) Because of the publicity that has been given to the process described in Item (10) above, the Non-Regulated Night Club now operating within the City at 127 West Second Street city may continue or begin and ~~that club or~~ other such clubs may begin operating at other locations within the City during hours of 2:00 a.m. and 7:00 a.m. before such process is completed.

Third, a moratorium on the issuance of certificates of occupancy and other certificates or permits by the City for the development or use of any land within the city, including but not limited to the land located at 127 West Second Street, as the location for a Non-Regulated Night Club, as defined above, at any time during the period beginning at 2:00 a.m. and ending at 7:00 a.m. is hereby declared.

Fourth, the Building Official and other officers or employees of the City are hereby instructed to refrain from issuing any certificates of occupancy or other certificates or permits for the development or use of the land located at 127 West Second Street, or any other land within the City, as a location for a Non-Regulated Night Club, at any time during the period beginning at 2:00 a.m. and ending at 7:00 am. on the same day and any such use is hereby prohibited until further orders of the City Council.

Fifth, the Planning Commission of the City is hereby directed to immediately begin and complete its study and, if deemed appropriate, request the calling of a joint public hearing by the City Council and the Planning Commission, so that such commission may make a report and recommendation concerning the amendment of the Comprehensive Zoning Ordinance to prohibit the use of any land with the city as a location for the operation during such time of a Non-Regulated Night Club.

Sixth, in the event any section or provision of this resolution 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 hereof and such remaining sections and provisions shall remain in full force and effect.

Seventh, this resolution shall take effect and be in force from and after its passage and adoption.

Eighth, the original of this resolution, after execution and attestation, shall be maintained by the City Secretary in the permanent records of the City and certified copies delivered to the Building Official and the Chairman of the Planning Commission of the City.

Ninth, the City Secretary is hereby directed to cause the descriptive caption of this resolution to be published twice in the Brazosport Facts, the official newspaper the City.

READ, PASSED AND ADOPTED this 14th day of Sept, 2015.

Norma Moreno Garcia
Norma Moreno Garcia, Mayor,
City of Freeport, Texas

ATTEST:

Delia Muñoz
Delia Muñoz, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

Wallace Shaw
Wallace Shaw, City Attorney,
City of Freeport, Texas

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