



**AGENDA
PUBLIC HEARING
FREEPORT CITY PLANNING COMMISSION
TUESDAY, JULY 28, 2020 at 6:00 P.M.**

Planning Commission

Members:

Eric Hayes
Andrew H. Dill

Nicole Mireles

Stuart Herbst
Clifford Vandergriff

THE CITY PLANNING COMMISSION OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON TUESDAY, THE 28TH DAY OF JULY 2020, AT 6:00 P.M., AT THE FREEPORT POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD, FREEPORT TEXAS FOR THE FOLLOWING PURPOSES:

BECAUSE OF THE PUBLIC HEALTH THREAT, SEATING WILL BE POSITIONED TO MEET THE REQUIREMENTS OF THE CDC, AND ATTENDEES WILL BE REQUIRED TO WEAR A FACE MASK.

THE GENERAL PUBLIC MAY ALSO JOIN THE PUBLIC MEETING REMOTELY BY TELECONFERENCE BY DIALING:

(US): (425) 436-6312 AND USING ACCESS CODE 5678901#

OR

AUDIO VISUAL CONFERENCE CALL USING:

PCs, Macs®, Chromebooks™, iOS and Android™ phones and tablets.

International dial-in numbers: https://fccdl.in/i/planning_mtg_072820

For users wanting to view and listen to the City Council meeting via a web browser go to [https:// join.freeconferencecall.com/planning_mtg_072820](https://join.freeconferencecall.com/planning_mtg_072820)

Enter access code 5678901# and the online meeting ID: [planning_mtg_072820](https://fccdl.in/i/planning_mtg_072820)

For additional assistance connecting to the meeting text ‘Call Me’ to the Dial-In number above and you will be called into the conference. Message and rates may apply.

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER: *The Chairperson will call the meeting to order, declare a quorum if present, and declare notices legally posted pursuant to Open Meetings Act.*

INVOCATION: (Planning Commission Member)

PLEDGE OF ALLEGIANCE: (Planning Commission Member)

PLANNING COMMISSION BUSINESS

REGULAR SESSION:

1. Consideration of approval of the minutes of previous meeting minutes for 06-15-2020 and 06-30-2020
2. **Discuss and take action:** on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13, 14, and 15.
3. **Discuss:** The creation of an Ordinance that would allow the use of golf carts and ATVs on City streets.

OPEN PUBLIC HEARING:

1. DISCUSS AND TAKE ACTION ON A REPLAT OF LOT 453, BLOCK 3 FORMERLY KNOW AS LOTS 453 & 454, BLOCK 3 (2.144 ACRES).OF BAR "X" RANCH SECTION TWO RECORDED IN VOLUME 16, PAGES 119-128 OF THE BRZORIA COUNTY PLAT RECORDS IN THE SAMUEL CARTER LEAGUE ABSTRACT 53 BRAZORIA COUNTY, TEXAS JULY 2020.
2. DISCUSS AND TAKE ACTION ON JENKINS TONE ROAD SUBDIVISION.29.48 ACRES- 4 LOTS A SUBDIVISION PLAT OF A 29.48 ACRE TRACT CONSISTING OF A CALLED 14.19 ACRE TRACT OUT OF A 14.82 ACRE TRACT OUT OF LOT 6 IN TRACT 3, DIVISION 18 OF THE S.F. AUSTIN 7-1/3 LEAGUES GRANT, ABSTRACT 20, BRAZORIA COUNTY, TEXAS.

CLOSE PUBLIC HEARING:

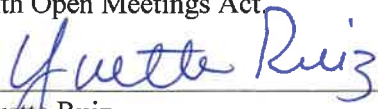
TAKE ACTION ON PUBLIC HEARING

ADJOURN:

Items not necessarily discussed in the order they appear on the agenda. The Planning and Zoning Board 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).

ACCESSIBILITY STATEMENT This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (979) 233-3526.

CERTIFICATE I certify the foregoing notice was posted in the official glass case at the rear door of the City Hall, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, before 6:00 p.m., in accordance with Open Meetings Act.


Yvette Ruiz
City of Freeport, Texas

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, June 15, 2020 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council:

- Mayor Brooks Bass
- Councilman Jerry Cain
- Councilman Ken Green
- Councilwoman Sandra Loeza
- Councilman Roy E. Yates

Staff:

- Tim Kelty, City Manager
- Stephanie Russell, Assistant City Manager
- Betty Wells, City Secretary
- Laura Tolar, Assistant City Secretary/ Special Projects Coordinator
- Chris Duncan, City Attorney
- Brenda Miller-Ferguson, Human Resource Director Via teleconference
- LeAnn Strahan, Freeport Destination Director Via teleconference
- Chris Motley, Freeport Fire Chief
- Ray Garivey, Freeport Police Department Chief
- Billy Shoemaker, Director for Building and Code via teleconference
- Lance Petty, Freeport Public Works Director
- Courtland Holman, Freeport Economic Development Corp., Director
- Clarisa Molina, Administrator Assistant Via teleconference

Visitors:

Nicole Mireles	Robert Koole
Eric Hayes	Kenneth Hayes
Sam Reyna	Sandra Leavey
David McGinty	Pam Tilley
Jerry Meeks (Veolia)	Jessie Parker
Melanie Oldham	Ronnie Woodruff (BWA)
Jeff Pena	Cathy Cox
Manning Rollerson	Nick Irene (Facts)
Keith Stumbaugh	Ruben Renabato
Andrew Dill	Tim Finley (Dow)
Ruth Renabato	

Visitors, Via Teleconference:

David Austin	Melissa Washington
Vander Williams	Edmeryl Williams
Kim Westergard	Ms. Williams

Call to order.

Mayor Brooks Bass called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation was led by Andrew Dill; the Pledge of Allegiance was conducted by Mayor Bass.

JOINT MEETING WITH PLANNING AND ZONING COMMISSION:

Call Open of Meeting

Nicole Mireles, Chairperson for the Planning and Zoning Commission opened the Joint Meeting at 6:03.

Work Session regarding proposed DT-1 ZONE.

Nicole Mireles said that after she discussed and interviewed many people and asked a lot of questions, she feels comfortable with the Downtown District going to 8th Street.

Eric Hayes said that when this ordinance was brought to the Planning Commission it was for the parking issues. He said that it outlines what types of businesses can be in the Downtown Zone, and it outlines off premise parking. He said if we go to 5th Street it will eliminate this problem. He said if we extend to 8th Street this will cause a parking problem. Mr. Hayes said that he recommends staying with the original agreement and stop at 5th Street.

Andrew Dill said that he still thinks we need to take this to 8th Street. Mr. Dill said that he is not clear if the Marina is being included or if it is not.

Keith Stumbaugh asked why we would not include the green space where the old Tarpon Inn Village use to be. He said if that piece of land was going to be developed why would it not be included in the Downtown Zone? He said he understands not wanting to rezone the waterfront of the Marina. He said that the green space could be a potential site for a Marina Plaza, or a draw for Downtown businesses. He also questioned the quad plex's. City Manager Tim Kely said that the reason was for the legal description to match across the board.

Manning Rollerson said that he lives in the Duplex on Cherry Street. He said that all this needs to be taken care of. He said that people are concerned with the City going into buildings without permission. Mayor Bass advised that this will be discussed later in the agenda.

Ruben Renobato said that he just wants to say again that he supports the new business district and he supports the move to 8th Street. He said that he sees this as a future growth idea.

ADJOURN PLANNING AND ZONING COMMISSION.

On a motion by Eric Hayes, seconded by Andrew Dill, with all present voting "Aye", Nicole Mireles adjourned the meeting at 6:23 PM.

Consideration and possible action of approving Ordinance No. 2020-2601 on creating a downtown zoning district and establishing its boundaries.

Mayor Bass tabled this item until the next Council Meeting on July 6, 2020.

Mayor Bass said for the record we have reconvened regular session of city council.

Citizen's Comments

Jessie Parker spoke to council about a project that she presented before the Pandemic. She said that this project is back on the table, she said that they will be in partnership with the Lincoln School in Houston. On Juneteenth she said there will be training. Mayor Bass asked to keep us notified because we will like to be a part of it.

Pam Tilley spoke to council about 427 East 8th. She said this is the home of her dad. She said that he and several others are still advocating to what should be rightfully theirs. Ms. Tilley asked who is assisting residents in the East End. She asked who will speak to them about what is going on with the Port Freeport. She said that the East End residents can be very helpful. She said that there is so much misinformation given out. She said please consider the East End.

Mayor Bass told Ms. Tilley we have Boards and Commissions that we need members to be in. He said if you are a resident, please get involved. This is one way to get the information. He said that there has been one meeting with the Port, and he still stands the same. The Port will have to fight for the properties that they do not own.

Manning Rollerson said to council that he was going to talk about defunding the Police Department. He said that the Police Department does not need an APC, and a Humvee. He said that we do not need these in our City. He said this is a small community. He said this is a city, and you should be fighting for us. He asked Councilman Green to get the ditches cleaned out.

Kenneth Hayes, commended City Manager Tim Kelty. He said he had a tough job when he came in. He has made some tough decisions and brought some good people in with him.

David Austin, via Teleconference said that he is concerned about his business Signal Electronics that is on 2nd Street with the new Downtown Zoning. He asked if he will be grandfathered in. He said that he does not want to apply for a Special Use Permit. Mayor Bass said there will be a Grandfather clause in the new Ordinance.

Edmeryl Williams said that she wants to commend Ms. Tilley for speaking for their concerns on the East End. She thanked the Mayor, and she said that the East End wants to become a part of everything.

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

Emergency management briefing COVID-19.

Freeport Fire Chief, Chris Motley said that calls have increased, not all COVID related. He said that on June 9, there was COVID-19 free testing that was done. Supplies from Sectrac are working as they should. He said that the supplies are stocked up. He said that there was a family member of an EMS staff which tested positive. The employee is home and waiting for the test results to come back in. He said that the station has been sanitized. He also reminded us that hurricane season started on June 1.

Freeport Police Chief Ray Garivey said that the Police Department is still ready to serve. He said that there were two officers that did test positive for the COVID-19. He said that the City Manager hired a company to come in and sanitize the station, and the jail. The EMS/Fire Department sanitized the Police units. He said that the supplies are good. Chief Garivey said that if there is high tide at the beach, then it is time to move for your safety.

City Manager Tim Kelty said that county numbers on the COVID-19 are rising per day. He said to be vigilant, to not relax and think this is all behind us. He said when more businesses open, we can expect to see the spread continue.

Presentation by BWA/Dow Harris Reservoir, on the Expansion Project. And consideration of approving Resolution No. 2020-2637.

Ronnie Woodruff with BWA and Tim Finley with Dow presented to council the expansion project. Mr. Woodruff said that it will triple the water capacity for periods of drought. Mr. Finley said that the water is being managed today with a short-term BRA contract. He said that they will borrow up to \$15 million through the swift funding. He said that tonight they are needing a signed resolution to allow BWA to go and secure a loan. This will cost the city nothing. Dow will be 100% responsible for this first phase. Melanie Oldham spoke on this.

Mayor Bass said that he is moving the Ordinance from Presentations to regular session where a motion will be made.

CONSENT AGENDA:

Consideration and possible action on the approval of City Council meeting minutes from June 15, 2020

Consideration of approving Resolution No. 2020-2632 declaring a 2012 Chevy Tahoe Police unit with 155,000 miles as surplus and authorizing as disposal (to be donated to the Holiday Lakes, Texas Police Department).

Freeport Police Chief Ray Garivey said that he had received a request from the Police Chief from Holiday Lakes, Police Department. He said that his PD is in need of some vehicles. Chief Garivey said that they had a unit and were able to help.

Consideration and possible action for the amendment of the City Attorney, Chris Duncan's contract for services.

Melanie Oldham spoke to council about the 20% raise, \$6600.00 per month in retainer fee, and \$180.00 per hour for additional work. She asked if this was with the EDC as well, or just the city.

Keith Stumbaugh spoke to council about his concern of the possible conflict of interest with City Attorney also representing the Freeport EDC as well.

Consideration of approving Resolution No. 2020- 2633 reappointing qualified person to the Board of Adjustments of said City; Raul Ramirez, Carlos Varela, Keith Stumbaugh.

Consideration and possible action approving the renewal contract with Freese and Nichols.

On a motion by Councilman Cain, seconded by Councilwoman Loeza, with all present voting “Aye” 5-0 Council unanimously approved the Consent Agenda items number 3-7.

REGULAR SESSION

Consideration of approving Resolution No. 2020-2634 for appointing reserve Officers.

Freeport Police Chief, Ray Garivey presented to council Resolution No. 2020-2634 for appointing Reserve Officers. He said that this is something that our ordinance says we must do; the Mayor and Council must approve reserve officers. He said that Reserve Officers are full time peace officers, but they do not get paid. Mr. Kelty said there are six reserve officers, Troy Brimage, Daniel Pennington, Rodney Bowers, Lei Loni Kershaw, Eluterin Martinez and Teresa LeBlanc. They are all TCOLE certified and their commissions are carried through the Freeport Police Department.

Councilwoman Loeza asked if they reserve with no pay? Chief Garivey said yes.

Nicole Mireles asked if they pay for their own commission. Chief Garivey said yes, and they pay for their own uniforms as well.

On a motion by Councilwoman Loeza, seconded by Councilman Green, with all present voting “Aye” 5-0 Council unanimously approved Resolution No. 2020-2634 for appointing reserve Officers.

Melanie Oldham said that she brought this to the attention to Chief Garivey three or four months ago. She also asked if all the Reserve Officers have their license.

Robert Koole said that we just participated in a peaceful protest. He asked why do we need a bigger police force? He said that he thought we were committed to seeing a change. Mayor Bass explained what the Reserve Officers are appointed for, and that they are subject to the same rules as every Officer that is employed by the City of Freeport.

Councilwoman Loeza asked what the liability is if one of the Reserve Officers are injured. Chief Garivey said that they are covered as a full-time officer, just with no pay.

Sandra Leavey commended Chief Garivey for his involvement with the City of Freeport.

Jessie Parker said that she hopes there is some sensitivity training for the officers.

Consideration of approving Resolution No. 2020-2637. BWA/Dow Harris Reservoir. Item # 2

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting “Aye” 5-0 Council unanimously approved Resolution No. 2020-2367 BWA/Dow Harris Reservoir.

Consideration and possible action of approving Ordinance No. 2020-2602 or unsafe structure.

Keith Stumbaugh said that he wants to make a comment on the improved PA system. He said this is great.

He said that he has concerns on the Unsafe Structure Ordinance. He said that a city official being able to enter a building without notification or without probable cause, he feels this needs to be removed, he is opposed to this.

Ruben Renobato said that he has reservations about this ordinance. He said that he wants to know if there has been any meetings prior tonight over this fifteen-page ordinance. He said that the criminal enforcement is an issue for him, he said that he leans more to civil penalties. He said that there is grant money out there and it does not have to be paid back.

Melanie Oldham said that she has read through the ordinance and she is concerned about the City being able to come into a building without permission. She said that she thinks that the language needs to be changed in this ordinance. She asked who the qualified people on this board will be.

Nicole Mireles asked who will be letting the property owner know that they are not in compliance. Ms. Mireles said that she is not confident in the City's Code Enforcers. She voiced her concern on the low income with some of our residents.

Mayor Brooks Bass said that we have houses falling, houses that are abandoned, he said there are trees growing through roofs. He said that this ordinance is to help with this kind of bad infrastructure. We must reach a compromise to protect our neighbors.

Jeff Pena said that this ordinance is trying to enforce code. He also asked who the committee will be.

Kim Westergaurd per Via Teleconference, said that her home is livable, she asked what are the standards?

This item was tabled.

Consideration and possible approval for Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District.

City Manager Tim Kelty presented to council Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District. Mr. Kelty said that this is a resolution amending the contract that was approved last year for the Gulf Coast Center. This resolution will transfer the authority to the Gulf Coast Transit District. The cost will increase by \$846.00 for a three-year contract.

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2635 for the Amendment to the Gulf Coast Center's request to transfer public transportation to Gulf Coast Transit District.

Consideration of approving an Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects.

City Manager Tim Kelty presented to council Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects. He said that there are about five homes that are receiving grant funding from the Brazoria County Community Development Grant Program. He said that this ordinance allows for a smaller construction when being funded through a grant program. Mayor Bass said he does not mind making a specific ordinance in this type of situation. He said that if we did not do this then the city would not be able to receive funding for these new houses.

On a motion by Councilwoman Loeza, seconded by Councilman Cain, with all present voting "Aye" 5-0 Council unanimously approved Ordinance No. 2020-2603 with exceptions for residential building size requirements for Brazoria County Community Development Program Projects.

Melanie Oldham said that this is a great idea, she asked if this applies to the Port homes as well. She said those are carports. She asked if the City Council will be able to look at each individual case.

Eric Hayes asked if there will be garages, or carports? Mayor Bass said there is an exception, and allow carports.

Consideration and possible approval for Resolution No. 2020-2636 for Tax Abatement.

Freeport EDC Director Courtland Holman presented to council Resolution No. 2020-2636 for Tax Abatement. He said that the Tax Abatement expired on October 2, 2019 for residential and commercial. Mr. Holman said that on June 9, 2020 the Freeport EDC reviewed and recommended that the Freeport City Council approve and adopt the new Property Tax Abatement. This must be done every two years by City Council if the council elects to be eligible to participate in Tax Abatement.

Melanie Oldham said that there are a lot of good things in this ordinance. She asked will companies self-report to Ms. Russell. She said that this is good incentive to get businesses here.

City Manager Tim Kelty said that all entities that receive tax abatement from the city will receive annual statement of compliance. Mr. Kelty said that this went to a steering committee before going to the Freeport EDC Board.

On a motion by Councilman Cain, seconded by Councilman Green, with all present voting "Aye" 5-0 Council unanimously approved Resolution No. 2020-2636 for Tax Abatement.

WORK SESSION:

Councilman Green asked if there was an update on when the road work on Broad Street by the railroad track. He also asked when the Outriggers will be coming back for the Mystery Ship. Freeport Public Works Director, Lance Petty said that we are still waiting on the outriggers to come back. The street repair will be late October, per the County. Councilman Green also said that on Perry and Ave A, there is a shrub that blocks your view when trying to make a turn.

Councilman Cain said that the property at 1700 West 10th, the grass is waist high. Mr. Kelty said that he will get with Code on this issue.

Councilwoman Loeza said that she received a call from a resident on Slaughter Road about the Dow property in this area. She said that the grass has not been cut. She said that she spoke with a representative from Dow and was told that this will be taken care of. She also asked is there are fire hydrants on Slaughter Road. Chief Motley said that there are fire hydrants in this area. She also asked about the abandoned church, she said that this is an eye sore, and she asked about road repair down this road. Ms. Loeza asked about the lighting in the Arlan's Shopping Center, she asked who replaces the lights that are out. Mr. Kelty said that this is the property owner's responsibility.

Councilman Yates said that Dave Austin has a business on 2nd Street, this business has been here for many years. Another issue Mr. Austin said he had a busted line at another building, and he was given a sewer adjustment the \$3000.00 bill was reduced to \$1500.00. He said that the city needs to look into this. Mr. Yates said there is a lot of trash in his Ward. Mr. Kelty said that he knows that the trash is being picked up, there is just more put out every day. He said that the bulk should be picked up weekly

and they are struggling to keep up with this. Mr. Yates also said that the Fishing Fiesta is the 4th of July. He said that he has raised about \$8000.00 for the fireworks.

Mayor Brooks Bass said that we have quotes for \$17,000.00 for the repairs for both fountains in Downtown.

City Manager Tim Kelty said that he picked up a restitution check for \$30,000.00 from the DA's Office, that was paid by a former employee on money that was stolen. And the \$39,000.00 will also be paid over a period of time.

Update on reports / concerns from Department heads

There was no comment from Department heads.

Open session was closed at 8:06 pm and Council entered into Executive Session.

CLOSED SESSION:

Executive Session regarding a.) (Personnel Matters) City Manager Evaluation b.) consultation with city attorney (Potential Litigation) in accordance with Government Code Annotated, Chapter 551, Sections 551.071, 551.074.

REGULAR SESSION

Mayor Brooks Bass reconvened regular session at 8:26 P.M.

No action was taken.

Adjourn

On a motion by Councilman Yates, seconded by Councilman Green, with all present voting "Aye", Mayor Brooks Bass adjourned the meeting at 8:27 PM.

Mayor, Brooks Bass
City of Freeport, Texas

City Secretary, Betty Wells
City of Freeport, Texas

Approve the minutes of June 1, 2020

On a motion by Eric Hayes and second by Cliff Vandergriff with all present voting “Aye” the Planning Commission unanimously approved the minutes for 6-01-2020

OPEN PUBLIC HEARING:

At 5:34 pm

PUBLIC HEARING: Discuss and take action on Tower Hill Subdivision a two Lot Subdivision out of 19.97 acre tract (called 20 acres) Conveyed to C.F.S. Investments Inc. Recorded in County Clerk’s file 200105673 of the Brazoria County Official records situated in the McDermott labor abstract 342 Brazoria County, Texas March 2020.

Melanie Oldham’s asked about if C.F.S. was right

CLOSE PUBLIC HEARING:

At 5:38 pm

TAKE ACTION ON PUBLIC HEARING:

On a motion by Eric Hayes and second by Cliff Vanderriff with all present voting “Aye” the Planning Commission approved the on Tower Hill Subdivision a two Lot Subdivision out of 19.97 acre tract (called 20 acres) Conveyed to C.F.S. Investments Inc. Recorded in County Clerk’s file 200105673 of the Brazoria County Official records situated in the McDermott labor abstract 342 Brazoria County, Texas March 2020.

Discuss and take action: on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13, 14, and 15.

No quorum to vote, item tabled

Adjourn

Nicole Mireles adjourned the meeting at 5:41 pm on a motion by Eric Hayes and second by Cliff Vandergriff.

Nicole Mireles - Chairman
City of Freeport, Texas

Yvette Ruiz
City of Freeport, Texas



Agenda Item # 2

Title: Discuss and Take action on previously tabled item, to recommend to the City Council a change to Chapter 76. Amending section 76.02, C 13,14, and 15.

Date: July 28, 2020

From: Billywayne Shoemaker Building Official

Staff Recommendation:

Set a public hearing date

Item Summary:

5th street was improved in 2017 and designed to replace the existing truck route. Due to the increased deterioration of the existing truck route truck traffic should be rerouted to the properly designed infrastructure.

Background Information:

The Item was brought to the Planning and Zoning board previously on December 12, 2017 and the item was tabled. This item again was brought before the Planning and Zoning Board in June of this year but was not heard because there was not a quorum available to vote on the item.

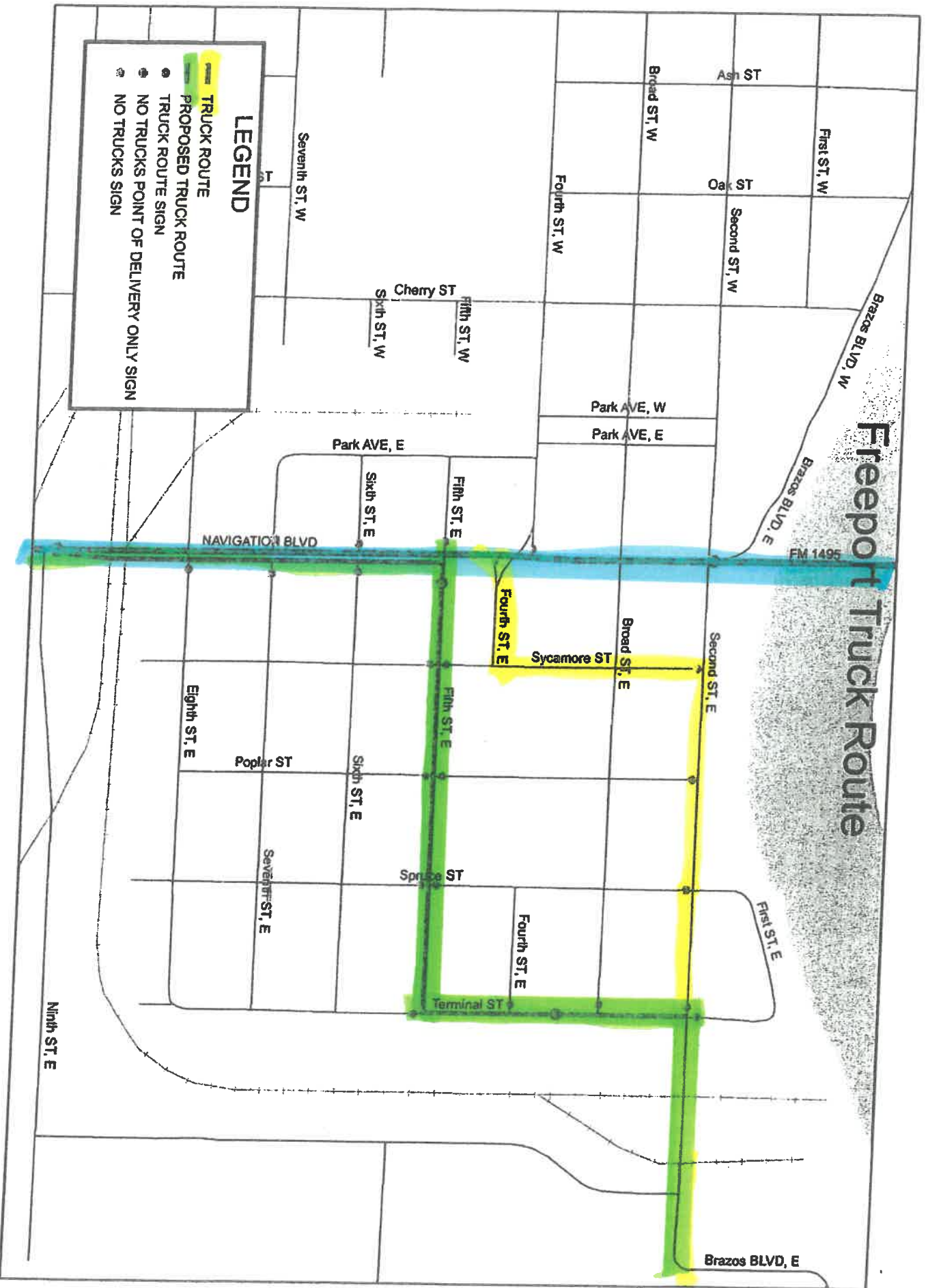
Supporting Documentation:

Copy of existing ordinance attached as well as a copy of the map showing existing and proposed route. Supporting Documentation:

Freeport Truck Route

LEGEND

- TRUCK ROUTE
- PROPOSED TRUCK ROUTE
- TRUCK ROUTE SIGN
- NO TRUCKS POINT OF DELIVERY ONLY SIGN
- NO TRUCKS SIGN



76.02 RESTRICTIONS ON TRANSPORTATION OF CARGO.

(A) No person shall operate a truck other than a light truck, or a truck tractor with a trailer attached thereto, for the purpose of transporting bulk or freight on any public street in the city, or any portion thereof, other than a street, or portion thereof, designated in division (C) of this section for the transportation of bulk or freight.

(B) No person shall operate a truck, or a truck tractor with a trailer attached thereto, for the purpose of transporting any hazardous material on any public street in the city, or any portion thereof, other than a street, or portion thereof, designated in division (C) of this section for the transportation of hazardous material.

(C) The following streets, or indicated portions thereof, are authorized for the bi-directional transportation of bulk, freight or hazardous materials, as designated:

- (1) Highway 332, within city limits: bulk, freight or hazardous materials.
- (2) Brazosport Boulevard (State Highway 288), within city limits: bulk, freight or hazardous materials.
- (3) Navigation Boulevard (FM 1495) between the south city limits and FM 523: bulk, freight or hazardous materials.
- (4) FM 523 from Navigation Boulevard (FM 1495) junction north to Highway 332: bulk, freight or hazardous materials.
- (5) Velasco Boulevard from FM 523 junction to South Avenue A: bulk or freight only.
- (6) South Avenue A, from Archer to Division Street: bulk or freight only.
- (7) Division Street, from South Avenue A to Gulf Boulevard: bulk or freight only.
- (8) Gulf Boulevard, from Brazosport Boulevard to Navigation Boulevard (FM 1495): bulk, freight or hazardous materials.
- (9) West 4th Street, from Brazosport Boulevard to Arbutus Street: bulk or freight only.
- (10) Arbutus Street, from West 4th Street to West 2nd Street: bulk or freight only.
- (11) Oak Street, from West Brazos to West 4th Street: bulk or freight only.
- (12) West 4th Street, from Oak Street to Navigation Boulevard (FM 1495): bulk and freight only.

~~(13) East 4th Street, from Navigation Boulevard (FM 1495) to Sycamore: freight and hazardous materials.~~

East 5th Street, from Navigation Boulevard (FM 1495) to Terminal: freight and hazardous materials.

~~(14) Sycamore Street, from East 4th Street to East 2nd Street: bulk, freight and hazardous materials.~~

Terminal Street, from East 5th Street to East 2nd Street: bulk, freight and hazardous materials.

(15) East Brazos, entire length: bulk, freight and hazardous materials. Provided, all ingress and egress for fuel deliveries shall use the East 4th Street exit from Navigation Boulevard (FM 1495) to Sycamore Street to West Brazos.

(16) West 8th Street, from Navigation Boulevard (FM 1495) to Cherry Street: bulk and freight only.

(17) Cherry Street, from West 8th Street to Highway 36: bulk and freight only.

(18) South Avenue D, from Velasco Boulevard to Navigation Boulevard (FM 1495): bulk and freight only.

(19) East 2nd Street, from FM 1495 to end of roadway: bulk, freight and hazardous materials. Provided, however, all hazardous materials deliveries shall ingress and egress using the ~~East 4th Street exit from Navigation Boulevard (F.M. 1495) to Sycamore Street to~~ East 2nd Street.

5th Street exit from Navigation Boulevard (FM 1495) to Terminal Street to

(20) Zapata Street, from Brazosport Boulevard to end of roadway: bulk and freight only.

(21) Skinner Street, from Brazosport Boulevard to North Avenue J: bulk and freight only.

(22) North Avenue J, from Skinner Street to Varner Street: bulk and freight only.

(23) Varner Street, from North Avenue J to Brazosport Boulevard, bulk and freight only.

(24) Victoria Street, from Brazosport Boulevard to end of roadway: bulk and freight only.

(25) Archer Street, from South Avenue A to South Gulf Boulevard: bulk and freight only.

- (26) Sailfish, from Highway 332 to end of roadway: bulk and freight only.
 - (27) Tarpon, from Sailfish to Marlin Avenue: bulk and freight only.
 - (28) Marlin Avenue, from Tarpon to the end of the roadway: bulk and freight only.
 - (29) Casco, from Highway 332 to end of roadway: bulk and freight only.
- (D) All liquid and solid hazardous materials, including precursors, are prohibited within a one city block radius of the City Hall of the city.
- (E) Box or cargo vans delivering supplies and cargo within the one block radius of the City Hall of the city are subject to a 15-minute or one-fourth hour parking rule.
- (Ord. 2002-1985, passed 6-17-02) Penalty, see § 10.99



Agenda Item # 3

Title: Discuss possible ordinance creating a routes and standards for utilization of Golf Carts and ATV's in the on City Streets.

Date: July 28, 2020

From: Billywayne Shoemaker Building Official

Staff Recommendation:

Discuss and direct staff in creating an ordinance that would approve routes and the types of vehicles that could be utilized such as golf carts and ATV

Item Summary:

We are taking the first steps toward creating a Golf Cart / ATV Ordinance that would allow and restrict the types and areas that one could operate on City Streets.

Supporting Documentation:

Other Municipal ordinances on Golf Carts and ATV.

ORDINANCE NO. 552

AN ORDINANCE OF THE CITY OF ABERNATHY, TEXAS, REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR PUBLICATION.

WHEREAS, golf cart use can help to reduce overall emissions and their use is an eco-friendly or 'green' alternative to traditional passenger vehicles; and,

WHEREAS, Chapter 551, Subchapter F, of the Texas Transportation Code, allows for the operation of golf carts within municipalities under certain conditions; and

WHEREAS, the Texas Transportation Code grants to municipalities the authority to control the operations of motor vehicles using its streets and to prescribe reasonable and safe restrictions related to the stopping, standing and parking of vehicles; and

WHEREAS, the Texas Transportation Code also permits municipalities to prohibit the operation of golf carts on a public highway if the governing body of the municipality determines that the prohibition is necessary in the interest of safety; and

WHEREAS, golf carts are not normally equipped with many of the traditional safety features that customarily required or found on more commonly-used motor vehicles; and,

WHEREAS, passenger ejection and injuries can be reduced in an urban setting by requiring additional safety equipment and providing rules of operation; and,

WHEREAS, golf carts, unlike more traditional motor vehicles, have identification numbering which is easily removed, such that establishing a golf cart registration permitting program would promote return of such property to rightful owners in the event of loss or theft and subsequent recovery; and,

WHEREAS, the City Council of the City of Abernathy, Texas ("City Council") has investigated and determined that the prohibitions set forth in this Ordinance are necessary in the interest of safety; and

WHEREAS, the City Council has further investigated and determined that it would be advantageous and beneficial to the citizens of the City of Abernathy, Texas ("Abernathy") and in the best interest of the public health, safety and welfare of the citizens and the public to establish regulations for the operation of golf carts as set forth below.

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

SECTION 1:
OPERATION OF GOLF CARTS ON PUBLIC STREETS

§ 1.01 Definitions

The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driver means the person driving and having physical control over the golf cart.

Driver's License means an authorization issued by a State for the operation of a motor vehicle. The term includes: (1) a temporary license or instruction permit; and (2) an occupational license.

Golf cart shall have the meaning assigned by the Texas Transportation Code §502.001(7), as amended, and means a motor vehicle commonly referred to as a golf cart, which must have an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as all-terrain vehicles ("ATVs"), off-road vehicles, four-wheelers, Mules, Gators and design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

Motorized Cart means those electric and gasoline powered carts, commonly referred to as golf carts, but which must have a minimum of three wheels and which have an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as ATV's, four-wheelers, mules, and gators.

Golf cart registration permit shall mean a privilege granted, upon compliance with the terms of this ordinance, to legally operate a golf cart upon a public street or roadway within the corporate boundaries of the City of Abernathy during the period when granted.

Golf cart registration permit decal shall mean a certificate for attachment to a golf cart carrying a serial number corresponding to the number of the golf cart license for such golf cart and showing the month and-calendar year the license shall expire.

Golf cart registration permit fee shall mean an administrative charge imposed as specified in this chapter for the granting of a golf cart registration permit and the issuance of a golf cart registration permit decal.

Owner means the person holding title to the golf cart.

Park or parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

Parking Area means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

Permit means a certificate/decals of authorization issued to the applicant by the City authorizing the operation of the golf cart for which the permit was issued. The decal will display the month and year of expiration.

Permit Holder means the person to whom a golf cart permit has been issued.

Public Safety Personnel means any employee or officer of a governmental law enforcement agency or the City of Abernathy or its Department(s).

Public Street means the public roadways of the City of Abernathy by whatever name, e.g. road, alley, avenue, highway, route, boulevard, etc. within the corporate boundaries of Abernathy that:

- a) Has a speed limit of 35 miles per hour or less;
- b) Provides for no more than one lane of vehicular traffic per direction;
- c) Is not designated as part of either the State or Federal highway system.

Sidewalk means the portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Slow-Moving-Vehicle-Emblem means a triangular emblem that conforms to standards and specifications adopted by the Director of the Texas Department of Transportation under Section 547.104 of the Texas Transportation Code and is displayed in accordance with Section 547.703 of the Texas Transportation Code.

Texas Transportation Code means the code as it currently exists or may be amended.

Traffic Way is any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

§ 1.02 Golf Carts Permitted and Restricted

A person, other than Public Safety Personnel, may operate a golf cart on a public street, parking area and/or traffic way if the person obtains a registration permit, affixes a registration decal, and meets the following requirements:

- (a) The Maximum speed limit on the public street is thirty-five (35) miles per hour or less;
- (b) The person has a valid driver's license;
- (c) The person maintains current financial responsibility for the golf cart, as required of other passenger vehicles in Section 601.051 of the Texas Transportation Code;
- (d) The person complies with all applicable federal, state and local laws and ordinances;
- (e) The golf cart has the following equipment, which must continuously remain in good working and operational order:
 - (1) Two (2) headlamps;
 - (2) Two (2) tail lamps;
 - (3) Side reflectors (two (2) front, amber in color and two (2) rear, red in color);
 - (4) Parking brake;
 - (5) Rearview mirror(s), capable of a clear, unobstructed view of at least two hundred feet (200') to the rear;
 - (6) Slow-moving vehicle emblem(s) having a reflective surface designed to be clearly visible in daylight or at night from the light of standard headlamps at a distance of at least 500 feet and shall be mounted base down on the rear of the vehicle at a height from three to five feet above the road surface and shall be maintained in a clean reflective condition;
- (f) While the golf cart is in motion, the driver and every passenger in a golf cart is seated in a seat designed to hold passengers. No person may stand or ride in the lap of the driver and/or other passenger of a golf cart while it is moving.
- (g) The equipment described herein meets the Texas and Federal Motor Vehicle Safety Standards, as they exist or may be amended; and

§ 1.03 Additional Requirements for Golf Carts Powered By Gasoline

In addition to the requirements set forth herein, every golf cart powered by gasoline shall at all times be equipped with an exhaust system in good working order and in constant operation and meet the following specifications:

- (a) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or including any and all parts specified by the manufacturer;
- (b) The exhaust system and its elements shall be securely fastened with brackets or hangers, which are designed for the particular purpose of fastening golf cart exhaust systems;
- (c) The engine and powered mechanism of every golf cart shall be so equipped, adjusted and tuned so that the exhaust is in good working order; and
- (d) It shall be unlawful for the Owner of any golf cart to operate or permit the operation of such golf cart on which any device controlling or abating atmospheric emissions which is placed on a golf cart by the manufacturer is rendered unserviceable by removal, alteration or which interferes with its operation.

§ 1.04 Additional Operational Regulations For All Golf Carts

- (a) Except for Public Safety Personnel, golf carts shall not be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic;
- (b) All golf carts are entitled to a full use of a lane on the authorized public streets, parking areas and traffic ways of Abernathy, and no motor vehicle shall be driven in such a manner as to deprive any golf cart of the full use of a lane;
- (c) The driver of a golf cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken;
- (d) No driver shall operate a golf cart between lanes of traffic or between adjacent lines or rows of vehicles;
- (e) The driver of a golf cart operating the golf cart on a public street may only cross a multi-lane federal, county or state route at an intersection controlled by an official traffic control device which stops traffic from all directions. The driver of a golf cart may cross a multi-lane road, other than a federal, state, or county route, if it is required to cross from one portion of a golf course to another portion of the same golf course. If a golf cart crossing path is provided for transition between one section of a golf course to another section of the same golf course across a multi-lane road, the operator shall cross at and within the golf cart crossing path;
- (f) The number of occupants in a golf cart shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart;

- (g) Children must be properly seated while a golf cart is in motion and may not be transported in a reckless or negligent manner. No person younger than six (6) years of age may be transported in a golf cart unless restrained by a safety belt restraint;
- (h) Golf carts may not be used for the purpose of towing another golf cart, trailer or vehicle of any kind including, without limitation, a person on roller skates, skateboard or bicycle. A person employed by a golf course may tow a golf cart(s) for the purpose of relocating the cart(s) from one portion of a golf course to another portion of the same golf course; and
- (i) Golf carts shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog, or other condition, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of five hundred feet (500’).

§ 1.05 Liability

- (a) Nothing in this Article shall be construed as an assumption of liability by the City of Abernathy for any injuries (including death) to persons, pets or property which may result from the operation of a golf cart by an authorized driver; and
- (b) Owners are fully liable and accountable for the action of any individual that they provide permission to operate and drive said golf cart, both on personal and/or any authorized public streets, parking areas and traffic ways. This described liability responsibility especially applies to personal injuries (including death) or property damage resulting from golf cart drivers who are minors under the age of twenty-one (21) with or without a current and valid driver’s license.

§ 1.06 Registration Permit Required

- (a) No person shall operate, cause to be operated or allow the operation of a golf cart on any authorized public streets, parking areas and traffic ways unless a valid registration permit has been issued for the golf cart or otherwise allowed by law.
- (b) Application for a permit authorizing the operation of a golf cart shall be made by a person who owns, leases or otherwise uses a golf cart. Such application shall be made in writing to the City on a form designated for that purpose. On such application shall be set forth the following:
 - (1) The name, address, telephone number and state driver’s license number, if applicable, of the permit holder;
 - (2) The street address where the golf cart is kept, including the particular suite or apartment number, if applicable;
 - (3) The business name used for the premises where the golf cart is kept, if applicable;

- (4) The year, make, model, color, vehicle identification number or serial number if no vehicle identification number has been issued to the golf cart, electric or gasoline; and
 - (5) The person(s) and location, designated by the City, that inspected the golf cart, including a certification by said inspector that the golf cart complies with the requirements of this Ordinance before the issuance of a permit;
 - (6) Statement that all operators are required to be licensed pursuant to Texas Transportation Code §§521.001(3) and 521.021, as amended, and that all equipment required herein is installed and will be kept operational during the permit period.
 - (7) Statement that the registration permit holder and any user shall indemnify and hold harmless the City of Abernathy, Texas for any and all civil liability associated with said registration waives any and all rights to sue or allow subrogation by insurance company.
 - (8) Other information which the City may require.
- (c) The registration permit decal shall be permanently affixed on the left side of the golf cart in such a manner that it is clearly visible from fifty feet (50'). The permit must not be damaged, altered, obstructed or otherwise made illegible. The permit holder shall apply for replacement permit and pay all applicable cost associated with the issuance and inspection of the golf cart;
 - (d) The registration permit decal shall only be placed upon the golf cart for which it was issued;
 - (e) A permit issued to a golf cart shall become invalid if the golf cart is altered in a manner that fails to comply with any requirement of this Ordinance;
 - (f) Registration Permits/Decals are valid for a period of (2) two years and each shall expire on December 31st of odd numbered years. The registration permit fee shall be prorated to the number of yearly quarters remaining in the permit period. The following fee shall apply:
 - 1. Registration Permit - \$48.00 (includes Inspection and Decal)
 - 2. Re-inspection if a cart fails the initial inspection - \$20.00
 - 3. Governmental entities applying for a Registration Permit are exempt from any fees.
 - (g) The permit holder shall notify the City within ten (10) working days if the golf cart transfers ownership or the address of the normal storage location has changed. The information shall be submitted on a form designated by the City;

- (h) Lost or stolen Permit/Decals are the responsibility of the Owner. A police report must be filed in the event of a lost or stolen Permit/Decal. If no record can be found of a previous application, or the receipt of a Permit/Decal, the City may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Decal is issued;
- (i) Any person who operates a golf cart and fails to receive and properly display a City Permit/Decal will be subject to all applicable state laws, in addition to being in violation of this Ordinance; and
- (j) A permit may be revoked at any time by the City, or its designee(s), if:
 - 1. there is any evidence that the permit holder cannot safely operate a golf cart on any authorized public streets, parking areas and traffic ways of the City in compliance with this Ordinance.
 - 2. The owner or driver fails to abide by the rules and regulations of this ordinance
 - 3. The owner fails to maintain proof of financial responsibility during the entire permit registration period.
- (k) The commission of any of the violations described herein constitutes evidence that the permit holder cannot safely operate a motorized golf cart on the street within the City of Abernathy.
- (l) The permit is not transferable. Upon transfer of ownership of the golf cart to a person who intends to operate it over authorized streets and parking areas, the new owner must register the golf cart and pay the registration permit fee as outlined hereinabove.

§ 1.07 Public Safety Personnel

Public Safety Personnel may operate a golf cart on any public street, parking area and traffic way without any further restrictions when the golf cart is used in the performance of his/her duties or on official business of the City or on City owned property and City leased property, including but not limited to, a parade, a festival or other special events.

SECTION 2. Penalty Provision.

§ 2.01 Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Abernathy from filing suit to enjoin the violation. Abernathy retains all legal rights and remedies available to it pursuant to local, state, and federal law.

§ 2.02 In addition to the misdemeanor for traffic violations of the driver of the motorized cart may be subject to pursuant to Texas Law, the owner and/or permit holder of the motorized cart shall be subject to the following civil penalties:

- (a) For the first offense, a fine of not less than \$25.00;
- (b) For the second and any subsequent offense, a fine of not less than \$50.00.

SECTION 3. Savings/Repealing Clause.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4. Severability.

Should any section, subsection, clause or phrase of this ordinance be declared unconstitutional or invalid by any court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full for force and effect.

SECTION 5. Effective Date.

This Ordinance shall be effective January 1, 2014 and publication as required by law.

PASSED AND APPROVED on this the 14th day of October, 2013.



Agenda Item # PH 1

Title: DISCUSS AND TAKE ACTION ON A REPLAT OF LOT 453, BLOCK 3 FORMERLY KNOWN AS LOTS 453 & 454, BLOCK 3 (2.144 ACRES) OF BAR "X" RANCH SECTION TWO RECORDED IN VOLUME 16, PAGES 119-128 OF THE BRAZORIA COUNTY PLAT RECORDS IN THE SAMUEL CARTER LEAGUE ABSTRACT 53 BRAZORIA COUNTY, TEXAS JULY 2020.

Date: July 28, 2020

From: Billywayne Shoemaker Building Official

Staff Recommendation:

Approve the re-plat of subject property

Item Summary:

Hold public hearing and upon closing of public hearing approve replat.

Background Information:

Combine lots and create utility easements.

Special Considerations

This property is located in the City's ETJ.

Supporting Documentation:

Copy of plat and associated paperwork will be attached.



Agenda Item # PH 2

Title: DISCUSS AND TAKE ACTION ON JENKINS TONE ROAD SUBDIVISION.29.48 ACRES- 4 LOTS A SUBDIVISION PLAT OF A 29.48 ACRE TRACT CONSISTING OF A CALLED 14.19 ACRE TRACT OUT OF A 14.82 ACRE TRACT OUT OF LOT 6 IN TRACT 3, DIVISION 18 OF THE S.F. AUSTIN 7-1/3 LEAGUES GRANT, ABSTRACT 20, BRAZORIA COUNTY, TEXAS.

Date: July 28, 2020

From: Billywayne Shoemaker Building Official

Staff Recommendation:

Approve the re-plat of subject property

Item Summary:

Hold public hearing and upon closing of public hearing approve replat.

Background Information:

Subdivide lots to sale to individuals for home sites.

Special Considerations

This property is Located in the City's ETJ.

Supporting Documentation:

Copy of plat and associated paperwork will be attached.