

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, October 16, 2023 at 6:00 PM at the Freeport, Police Department, Municipal Court Room, 430 North Brazosport Boulevard Freeport Texas for the purpose of considering the following agenda items:

City Council:

- Mayor Brooks Bass
- Councilman Jeff Pena
- Councilman Jerry Cain
- Councilman George Matamoros
- Councilman Winston Rossow

Staff:

- Tim Kelty, City Manager
- Lance Petty, Assistant City Manager/PWD, Not Present
- David Olson, Interim City Attorney
- Clarisa Molina, Assistant City Secretary/Administrative Assistant
- Cathy Ezell, Finance Director
- Toby Cohen, IT Manager
- Donna Fisher, Human Resource Director
- Ana Silbas, Main Street Coordinator
- Jennifer Howell, Police Chief
- Chris Motley, Fire Chief

Visitors:

David McGinty	Kenny Hayes
Sam Reyna	Nicole Mireles
Jared Barber (Freese & Nichols)	David Hunn (Freese & Nichols)
Joe Thaxton	Pam Dancy
Shonda Marshall	Carole Parker
Ron Bachman	Margaret Bachman
Mark Parker	Manning Rollerson

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER:

Mayor Bass called the meeting to order at 6:00 PM

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation was led by Councilman Rossow, the Pledge was led by Mayor Bass.

CITIZENS' COMMENTS:

Ana Silbas Main Street Coordinator, wanted to provide a few updates regarding a recycling program that will be year long starting on October 9 with two locations, one at City Hall and one at the Police Department. She talked about Fall Market and Día de Los Muertos. She invited Council to the Main Street meeting on Thursday.

Nicole Mireles at 2002 North Avenue G talked about the anonymous letter she received. She talked about a public notice on behalf of the Board of Adjustments that was mailed. She said she is frustrated at the way City Hall is being ran.

Evan Villareal, 709 West 5th Street, wondering if the police could escort some people riding bikes from downtown to Riverplace the night of Fright Night. He said he and Pena were discussing this, and wanting to get this set up.

Manning Rollerson talked about the rental properties, and how he has been requesting something to be done for the last ten years. He said we have a broken government. He spoke of the chemical plants making people sick.

Nicole Mireles said she feels offended by Mr. Rollersons comments.

Sam Reyna resides at 2002 North Avenue G. He talked about the article in the newspaper that was about adding \$3 to the water bills to support the inspection of a rental property program.

Pamela Dancy said she does not agree that citizens should have an increase in their waterbill in support of the new position for the Rental Inspection Program. She said she was not okay with paying \$3 more for her water bill.

PRESENTATIONS/ANNOUNCEMENTS:

Presentation for Employee of the Month, for the month of September 2023.

There was no presentation of EOM.

Proclamation recognizing October 21st 2023, as Wildcat Social Club Day

Mayor Bass read a proclamation recognizing October 21, 2023, as Wildcat Social Club Day.

Councilman Rossow explained what the Wildcat Club does.

CONSENT AGENDA:

Consideration and possible action on the approval of City Council Meeting Minutes, from October 2, 2023.

Consideration and possible action approving the interlocal agreement with Brazoria County to continue the professional services of LJA Engineering for the regional stormwater management program and permit applications as part of the Brazoria County Stormwater Coalition.

A motion was made by Councilman Matamoros to approve the Consent Agenda, seconded by Councilman Cain with all present voting "Aye" 5-0 motion passed.

COUNCIL BUSINESS – REGULAR SESSION:

Consideration and possible action amending Ordinance No.1734 in regards to Reserve Officers.

Police Chief Howell, presented to Council Ordinance No. 2023-2822 amending Ordinance No. 1734 in regards to Reserve Officers. She said this would bring the PD's Reserve Officer policy up to the State requirements. She spoke of the requirements to become a Reserve Officer.

A motion was made by Councilman Pena to approve Ordinance No. 2023-2822, seconded by Councilman Rossow with all present voting "Aye" 5-0 council unanimously approved the motion.

Consideration and possible action approving the Fiscal Year 2023/2024 Brazoria County Interlocal Road Project.

City Manager Tim Kelty presented to council the possible action approving the Fiscal Year 2023/2024 Brazoria County Interlocal Road Project. He said the agreement with Brazoria County under which these streets would be completed was approved by Council a couple of months ago. There are a total of 21 streets that are being proposed to be rehabilitated by the County.

Councilman Pena said he requested that for Ward A the streets identified be moved to the beach. This will finish off the road to be paved to the dunes.

A motion was made by Councilman Cain to approve as presented the Fiscal Year 2023/2024 Brazoria County Interlocal Road Project, seconded by Councilman Matamoros with all present voting 4-1 motion passed. Councilman Pena voted "Nay"

Consideration and possible action to approve the proposal from CRG Texas for the removal of the existing underground fuel tanks at the Service Center.

City Manager Tim Kelty presented to council the consideration and possible action approving the proposal from CRG Texas for the removal of the existing underground fuel tanks at the Service Center. He said staff recommends this contract. Mr. Kelty said this is not a budgeted item, but it is required by TCEQ that these tanks be removed.

Councilman Pena asked how long we had known these tanks needed to be removed? Ms. Ezell said we have been waiting for the requirement from TCEQ, this is something we have to do.

A motion was made by Councilman Cain to approve the proposal from CRG Texas for the removal of the existing underground fuel tanks at the Service Center, seconded by Councilman Matamoros with all present and voting 4-1, motion passed. Councilman Pena voted "Nay"

Consideration and possible action approving Resolution No. 2023-2821 for EDC Budget Amendment #2 for Fiscal Year 2023.

Finance Director Cathy Ezell presented to council the possible action of approving Resolution No. 2023-2821 for the EDC Budget Amendment #2 for Fiscal Year 2023. She said this is the final Budget Amendment for FY 2022/2023. This was approved by the EDC Board.

Councilman Pena asked why there was not an EDC Rep present at this meeting? Councilman Matamoros said he is an EDC Board Member and they did in fact vote to recommend this budget amendment. Ms. Ezell said she was the one who presented to the EDC, as she is their accountant.

A motion was made by Councilman Matamoros to approve Resolution No. 2023-2821, seconded by Councilman Cain, with all present voting 4-1 council approved the motion. Councilman Pena voted "Nay".

Consideration and possible action approving Ordinance No. 2023-2711 for Budget Amendment #2 for Fiscal Year 2023.

Finance Director Cathy Ezell presented to council the possible action of approving Ordinance No. 2023-2711 for FY 2023 Budget Amendment #2. She said staff recommends the Budget Amendment. This is the final one for this Fiscal Year, which will true up all expenditures. She said this amendment will not effect the bottom line for which the new fiscal year budget was based upon.

A motion was made by Councilman Cain to approve Ordinance No. 2023-2711, seconded by Councilman Pena with all present voting "Aye" 5-0, council unanimously approved the motion.

Consideration and possible approving Resolution No. 2023-2820 amending the policy regarding public comments during a City Council meeting.

City Manager Tim Kelty, presented to council the possible action approving Resolution No. 2023-2820 amending the policy regarding public comments during a City Council Meeting. Mr. Kelty said this resolution amends the policy that was adopted by City Council on July 21, 2010. He said it is intended to reflect the current practice regarding public comment during meetings, in compliance with State Open Meetings Law, and Federal Case Law. He said this resolution will limit Council members from speaking during the Citizen Comment portion of the agenda. This resolution is recommended by City Legal Counsel.

Councilman Pena asked why are we forcing ordinances on the books, why are we playing cat and mouse games, and why are we as Councilman not allowed to give comments? And why have we been exercising this before it was formally passed?

Mr. Olson said the Fifth Circuit decision was made, and Mayor Bass enforced this decision. He is in charge of the meetings and how they are conducted. Councilmembers are allowed to add items to the agenda per City Policy.

Councilman Matamoros spoke of the TML Training for newly elected officials. He said he went to this training, and he received information on this issue, and he shared this information. He said the TML attorneys advised elected officials speaking during the citizens comments portion of the meetings is not proper.

A motion was made by Councilman Cain to approve Resolution No. 2023-2820 amending the policy regarding public comments during a City Council Meeting, seconded by Councilman Matamoros with all present voting 4-1 motion passed. Councilman Pena voted "Nay".

Consideration and possible action granting a 4.7 acre drainage easement to the Velasco Drainage District, along the levee from behind the Pocket Park on Avenue A to Riverside Park.

City Manager Tim Kelty presented to council the possible action granting a 4.7 acre drainage easement to the Velasco Drainage District along the levee from behind the Pocket Park on Ave A to Riverside Park. He said the Velasco Drainage District is under a Federal Mandate by the Army Corps of Engineers to maintain this levee. Mr. Williams of the Velasco Drainage District said this would be the last utility easement to be requested by Velasco Drainage District.

A motion was made by Councilman Pena to approve granting a 4.7 acre drainage easement to the Velasco Drainage District along the levee from behind the Pocket Park on Ave A to Riverside Park, seconded by Councilman Matamoros, with all present voting "Aye" 5-0 council unanimously approved the motion.

Consideration and possible action authorizing the City Manager to carry over unused vacation.

Mayor Bass presented to Council the possible action authorizing the City Manager to carry over unused vacation. Mayor Bass said Mr. Kelty has allowed employees to carry over unused time but wanted to get Council approval for him to do the same for a six month period. Mayor Bass said Mr. Kelty has worked hard, and he feels that Mr. Kelty should be allowed to carry over these unused hours.

Mayor Bass made a motion authorizing the City Manager to carry over unused vacation, seconded by Councilman Cain with discussion that followed.

Councilman Cain asked if this is a one-time basis? Mr. Kelty said "yes".

Councilman Pena asked what are the total hours? Mr. Kelty said a one-time 150 hours of earned vacation for

six months. This is about 3.75 weeks of vacation.

Mayor Bass called the motion to a vote, with all present and voting 4-1, motion passed. Councilman Pena voted "Nay".

Consideration and possible action amending the Zoning Ordinance allowing for and regulating the use of portable storage containers.

City Manager Tim Kelty presented to council the possible action amending the Zoning Ordinance allowing for and regulating the use of portable storage containers. Mr. Kelty said at the last council meeting, Mr. Reyna expressed concerns of the legality of the City's ability to enforce this with conjunction with State Law. Mr. Olson looked into this, and the City is allowed to regulate these storage units. Mr. Kelty said the Planning and Zoning negotiated and came up with some compromises. This Ordinance is what they came up with, and if council passes this tonight, it will then allow the limited use of shipping containers for permanent storage in commercial, non-residentially zoned areas.

Mr. Olson explained the information which Mr. Reyna shared. He said this would be if someone wanted to live in one of these. This ordinance is for storage.

A motion was made by Councilman Matamoros to approve amending the Zoning Ordinance allowing for and regulating the use of portable storage containers as written, seconded by Councilman Cain, with all present voting 4-1, motion passed. Councilman Pena voted "Nay".

Discussion and possible action to award a bid to the apparent low bidder for WWTP.

Finance Director Cathy Ezell presented to Council the possible action of awarding a bid to the apparent low bidder for the WWTP. She said bids were opened on October 4, 2023. There were two bids, they came in at \$13.8 million and \$16 million respectfully. Ms. Ezell said we had \$4.95 million budgeted for construction as part of the grant. This grant was secured about two and half years ago with the help of Freese and Nichols.

There was a lengthy discussion about the cost of the Package Plant Manufacturers, by Council, Grant Works Representative, staff and Freese and Nichols. There was discussion on possible repairs to the plant now, if this is possible to save some money, and do the full repair in a couple of years. The cost has gone up considerably since 2020 and the pandemic. There was discussion about lifting the leaning tank, the rusting of the tank. It was said the tank alone is in desperate need of work. It was discussed possibly making a scope amendment to the project. All of this will have to be approved by the GLO. There was discussion by Councilman Pena about the \$8.9 million from the agreement with the Port. He asked why we can't just use these funds? Ms. Ezell said the full \$8.9 is not available because there is a contractual obligation in the agreement for the lift station as well as the park development.

This item was tabled.

Consideration and possible action for a budget amendment to perform repairs needed at the Freeport Municipal Park Kitchen.

City Manager Tim Kelty presented to council the possible action to approve a budget amendment to do repairs needed at the Freeport Municipal Park Kitchen. He said this was brought forward by Councilmen Cain and Matamoros. He said the estimate of the repairs would be about \$40,000. He said the EDC showed consensus at their last meeting to cover upto fifty percent of this cost. He said we will be able to partially utilize the kitchen for some preparation for the Super Feast. But the full improvements would not be completed in time. If this is approved, we will be able to use it as a rentable space.

Councilman Cain said this item is proof we do have a procedure in place. If a constituent asks for something to be discussed, we have a process in place, and following the procedure it works. Councilman Cain said he does not think we will get this done before the Super Feast, and this is one organization that will benefit from this

repair.

Councilman Matamoros said when Councilman Cain asked him to co-sponsor, he gladly agreed. He said he has received questions of consideration about this from residents. He said he researched what an EDC project could help with and this is one of the things it can help with. He said he approached the EDC Board to use some EDC funds to help with this, up to \$20,000 with the two public hearings and approval by City Council.

Councilman Pena talked of the Velasco House remodel, and asked how often the kitchen is used. Mr. Kelty said he did not have that information, but would find out. Councilman Pena said if we haven't used the kitchen at the park in two years, what is the urgency now?

Mr. McGinty said all food is prepared off site. He said we need ovens to prepare the large number of sides. This kitchen is needed, and it will even help if there is an emergency in the city.

A motion was made by Councilman Cain to authorize the repairs needed at the Freeport Municipal Park Kitchen, seconded by Councilman Matamoros.

Ms. Marshall said this is over \$10,000. It has to go to city council before EDC can pay anything. She said we need to make sure all protocols are met.

Mayor Bass called the motion to a vote, with all present and voting 4-1, motion passed. Councilman Pena voted "Nay".

WORK SESSION:

The City Council may deliberate and make inquiry into any item specifically listed as a Subsection under the itemized Sections A-H below, an item appearing on the City Council agenda for this meeting, on matters related to community events, or on matters that are not within the jurisdiction of the City for consideration by City Council. The City Council may not deliberate on any City matters not specifically disclosed under this Work Session or on this posted City Council Meeting agenda. City Council members and the Mayor always reserve the right to request that a matter be placed on a future agenda for consideration.

Mayor Brooks Bass announcements and comments.

Mayor Bass said many may know, and some may not know that Betty Wells, after many years of working for the City of Freeport, will be moving to brighter pastures. He said it has been a pleasure working with Ms. Wells, as Councilman and now as the Mayor. He said she has been nothing but a stalwart for the City. Mayor Bass said he appreciates and salutes Ms. Wells, and wishes Ms. Wells the best of luck.

Councilman Pena Ward A announcements and comments.

Councilman Pena thanked everyone that attended Fall Harvest today, including Councilman Rossow, the Police Department and City staff. He thanked Ms. Ezell for speaking with him about the HOT taxes. He asked what could be discussed in the workshop session of the agenda. He spoke about posting his agenda on the bulletin board outside City Hall. David Olson said he did have a conversation with Councilman Pena, about when it would be appropriate to post his own agenda. He said this occurs when you follow the proper policies to have something posted on the agenda. He said I would suggest, if you want to place that unilaterally items on the agenda, you make that request to council. Councilman Pena said he wants to know why he is being silenced. Mayor Bass said there are rules, and no one is above the rules.

Councilman Cain Ward B announcements and comments.

Councilman Cain spoke of 9th Street construction almost being complete. He said once completed, the street lights will be powered up and working. Councilman Cain invited all to the Fright Fest on Thursday October

26th at Riverplace.

Councilman Matamoros Ward C announcements and comments.

1. HOT

2. Starbucks Agreement with EDC.

Councilman Matamoros thanked all that came to the meeting, and the ones who watched online. Councilman Matamoros asked Ms. Ezell if any person owing HOT taxes paid them, as they stated they would at the last city council meeting? Ms. Ezell said "no, but Councilman Pena asked that a letter be mailed to set up a meeting to remedy the HOT taxes which he owes". Councilman Matamoros said he wants to make a clarification. He said not one person in the City Administration asked me, directed me, or even wrote me about this statement at the last city council meeting. Councilman Matamoros said he did his own research, he said he has his own independent thoughts, he is not a follower. He spoke of the Starbucks agreement with the EDC. He said it has been brought to his attention that he, the EDC Liaison, and City Staff have taken control of this agreement, and have changed the terms of the agreement and are now giving Starbucks money for free. Councilman Matamoros said this is false. This agreement was negotiated with the EDC President, Treasurer and the EDC Attorney. These terms were with the developer, not Starbucks directly. It was suggested to make an agreement with Starbucks, instead of the developer. Now the ex-member of the EDC who negotiated the terms of this agreement is stating falsehoods, that now need to be fixed with the truth. Councilman Matamoros said, if any resident has any questions please contact me directly.

Councilman Rossow Ward D announcements and comments.

Councilman Rossow said he does not know Pat Sebesta. He said this is to set the record straight. Councilman Rossow said the Senior Harvest was great. He announced Ave A was completed. He said anytime he has requested service, such as a stop sign needing repair or put back up, lights not working, just any issue, these issues are always taken care of in a timely manner. He said he commends the City of Freeport staff. He said he is a very positive person, there is enough negative. He said if you need to speak with him about any issues, his information is on the City website.

City Manager Tim Kelty announcements and comments.

1. City Hall Renovation update.

City Manager Tim Kelty said he wanted to make the Council aware that in June Council approved the award of contracts for asbestos abatement and the renovation of City Hall. He said Covarubias submitted his bid for City Hall renovation in May. The contract was awarded in July, but because of waiting on bids for the abatement, Covarubias' bid went past the 30 days. Mr. Covarubias has still not been given notice to proceed 5 months later because the asbestos abatement took longer than anticipated and once completed a significant amount of additional asbestos abatement was identified. Mr. Kelty said he, Mr. Petty and the architect met with Mr. Covarubias last week, the City is withdrawing the contract, and plan to rebid this with the additional asbestos work. This will be pushed back by a couple of months. He said the new bid and contract will be presented to Council at a future meeting.

Councilman Pena asked if there had been any work completed by the contractor? Mr. Kelty said no.

Updates on current infrastructure.

Update on reports / concerns from Department heads.

No update on reports or concerns from Department heads were offered.

Mayor Bass made a motion to invite City Manager Tim Kelty into Executive Session, seconded by Councilman Matamoros with all present voting 4-1, motion passed. Councilman Pena voted "Nay".

Councilman Pena made a motion to include the Police Chief in Executive Session, seconded by Councilman Matamoros, with discussion that followed.

Councilman Matamoros said he would like to make it known that two council meetings ago, Councilman Pena was having a conversation outside with Mayor Bass in the dark, and no security was needed and he obviously did not feel threatened. Councilman Pena said, "You do not know what I think or feel".

Mayor Bass called the motion to a vote, with a 1-4 vote motion failed. Mayor Bass, Councilmen Cain, Rossow and Matamoros voted "Nay".

CLOSED SESSION:

Executive Session regarding a.) Consultation with City attorney (Pending Litigation) Music v. City of Freeport, et al., Washington v. City of Freeport et al., City of Freeport v. Shri Maa, LLC d/b/a Motel 6, and Duncan V. City of Freeport; b.) personnel matters regarding complaints filed against Councilman Jeff Pena, in accordance with the Texas Government Code Annotated, Chapter 551, Sections 551.071 and 551.074.

The regular Session closed at 8:09 PM and Council entered into Executive Session.

COUNCIL BUSINESS – REGULAR SESSION:

Take any action resulting from Executive Session.

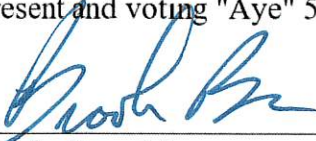
Executive Session ended at 8:35 PM and Council entered back into Regular Session.

No action was taken in Executive Session.

ADJOURNMENT:

Adjourn

A motion was made by Councilman Cain to adjourn the meeting, seconded by Councilman Matamoros with all present and voting "Aye" 5-0, Mayor Bass adjourned the meeting at 8:35 PM.



Brooks Bass, Mayor



Clarisa Molina, Interim City Secretary