



**AGENDA  
REGULAR MEETING  
FREEPORT CITY COUNCIL  
MONDAY, JANUARY 9, 2023 at 6:00 P.M.**

**Mayor:**

Brooks Bass

**Council Members:**

Jeff Pena

Jerry Cain

Mario Muraira

**City Manager:**

Timothy Kelty

**THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON MONDAY, THE 9TH DAY OF JANUARY, 2023, AT 6:00 P.M., AT THE FREEPORT, POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD FREEPORT TEXAS**

**This meeting will be live streamed via Facebook Live and may be accessed on the City of Freeport Facebook page: <https://www.facebook.com/freeporttexas>**

**THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:**

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

**INVOCATION AND PLEDGE OF ALLEGIANCE:** (Council Member)

**CITIZENS' COMMENTS:**

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

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

1. Presentation for the possible Special Bond Election to be held on May 6, 2023.

## **CONSENT AGENDA:**

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, Councilmember or City Manager, and acted upon separately.

2. Consideration and possible action on the approval of City Council meeting minutes from December 19, 2022. **(Wells)**
3. Consideration and possible action approving the road closures for the Mardi Gras event on February 18, 2023 12:00 PM-5:00 PM Downtown. **(Petty)**

## **COUNCIL BUSINESS – REGULAR SESSION:**

4. **Public Hearing:** Public Hearing on Consideration and Possible Action on Ordinance 2022-2682, Amending the City of Freeport Zoning Ordinance by amending Section 155.901(E)(3) EFFECT OF DESTRUCTION to except residential structures permitted in the Downtown District from this provision. **(Roman)**
5. **Public Hearing:** Public Hearing on a request for Replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas. **(Roman)**
6. **Public Hearing:** Public Hearing Request for replat of Seaside Estates of Follett's Island TX a 10 Lot Subdivision of 25.979 Acres Composed of Tracts 5 through 11 of the unrecorded Subdivision of 70.15 acres conveyed to Nelms Development LLC in County Clerk's File 2021061111 of the Brazoria County Official Records situated in the Stephen F. Austin Peninsula League Abstract 29 City of Freeport Brazoria County, Texas. **(Roman)**
7. Consideration and possible action approving the Joint Contract with Brazoria County Elections for the Special Election for Ward D on February 25, 2023. **(Kelty)**
8. Consideration and possible action regarding the report of Charter Review Commission recommendations to place items on Charter Review Election Ordinance. **(Kelty)**
9. Consideration and possible action approving Resolution No. 2022-2770 for Censure on Councilman for a complaint asserting a hostile workplace regarding comments made by a Councilman to a city employee. **(Cain/Bass)**

**WORK SESSION:**

**10. The City Council may deliberate and make inquiry into any item listed in the Work Session.**

- A. Mayor Brooks Bass announcements and comments.
- B. Councilman Pena Ward A announcements and comments.
- C. Councilman Cain Ward B announcements and comments.
- D. Councilman Muraira Ward C announcements and comments.
- E. City Manager Tim Kelty announcements and comments.
- F. Updates on current infrastructure.
- G. Update on reports / concerns from Department heads.

**CLOSED SESSION:**

11. Executive Session regarding a.) (Deliberations about Real Property) East End. b.) (Consultation with Attorney) potential litigation: Pending litigation Pena vs. Board of Adjustments for City of Freeport; Legal issues update on special investigation by Special Counsel regarding purchase of Boys and Girls Club by Councilman Pena; in accordance with Texas Government Code Annotated, Chapter 551, Sections 551.071 and 551.072

**COUNCIL BUSINESS – REGULAR SESSION:**

12. Take any action resulting from Executive Session.

**ADJOURNMENT:**

13. Adjourn.

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

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

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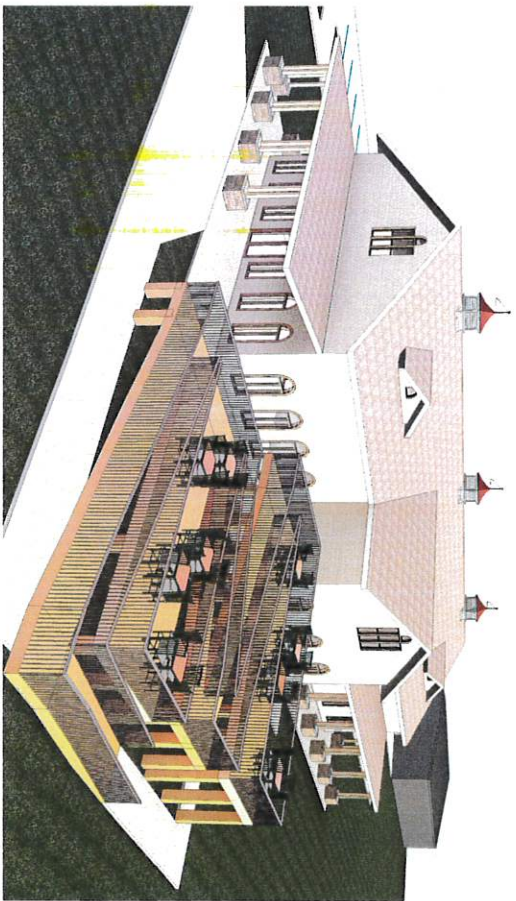
**ACCESSIBILITY STATEMENT** This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (979) 233-3526.

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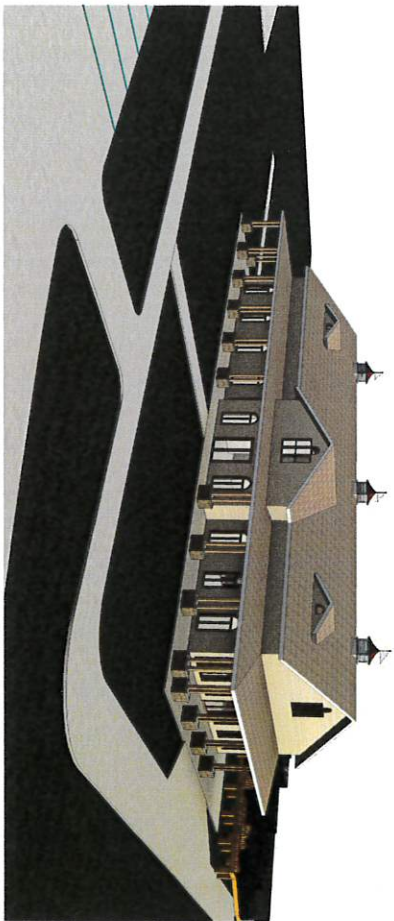
**CERTIFICATE** I certify the foregoing notice was posted in the official glass case at the rear door of the City Hall, with 24 hours a day public access, 200 West 2<sup>nd</sup> Street, Freeport Texas, before 6:00 p.m. in accordance with Open Meetings Act.

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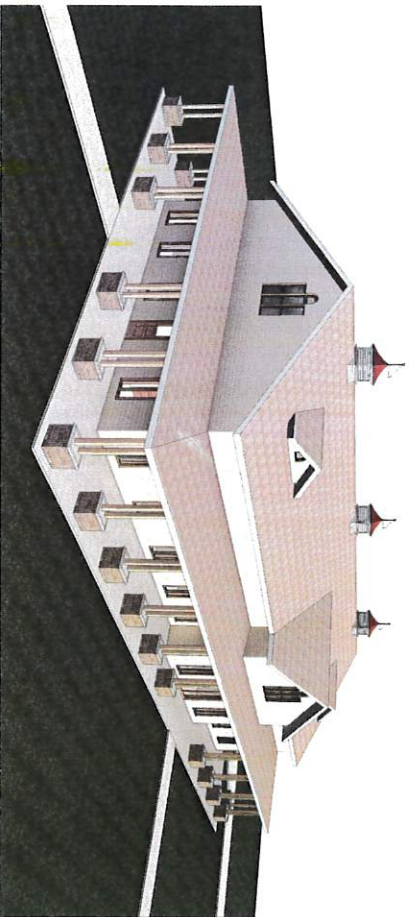
Betty Wells, City Secretary, City of Freeport, Texas



4 3D VIEW FROM NORTH EAST

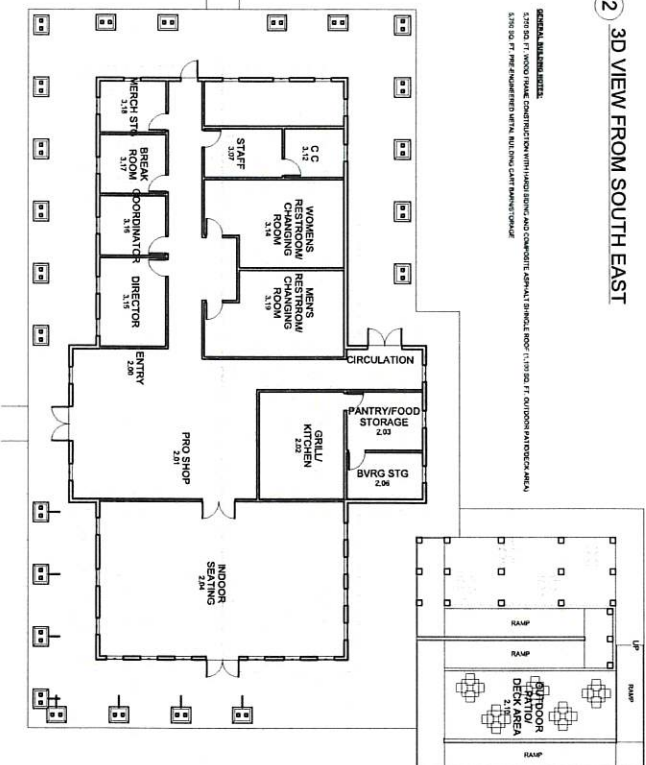


2 3D VIEW FROM SOUTH EAST



3 3D VIEW FROM SOUTH WEST

1 CONCEPT 1 GROUND FLOOR PLAN  
1" = 10'-0"



FREEPORT GOLF COURSE CLUBHOUSE

CONCEPTUAL DESIGN 3



09/30/2022

DEPARTMENT ONE			STAFF		
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.
1.00 Director	1	160	160	15.8	10.0
Private office with small separate seating area. Locate I.T. server here.					
1.01 Coordinator	1	120	120	13.7	10.0
Office for Coord./Crew Leader, files, etc.					
1.02 Staff	1	100	100	12.5	13.0
Work area for club repair.					
1.03 Break Room	1	120	120	13.7	14.0
Employee Break Room w/ inside-outside access					

**STAFF DEPT. - SQ. FT. TOTALS** **500**

Notes: -

DEPARTMENT TWO				BUILDING SUPPORT		
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.	Z Coord.
2.00 Entry	1	80	80	11.2	11.0	7.3
Small vestibule/airlock						
2.01 Pro Shop	1	600	600	30.6	31.0	19.4
Main area w/ POS, counter & merchandise displays						
2.02 Grill/Kitchen	1	240	240	19.4	19.0	12.6
Small prep kitchen; include ice machine area here.						
2.03 Pantry/Food Storage	1	160	160	15.8	16.0	10.0
2.04 Indoor Seating	50	25	1,250	6.3	6.0	4.2
Seating for 50						
2.05 Merchandise Storage	1	100	100	12.5	10.0	10.0
2.06 Beverage Storage	1	100	100	12.5	10.0	10.0
2.07 Custodial Closet	1	80	80	11.2	10.0	8.0
2.08 Men's Restroom/Changing Room	1	400	400	25.0	25.0	16.0
2.09 Women's Restroom/Changing Room	1	400	400	25.0	25.0	16.0
2.10 Outdoor Patio/Deck Area	50	20	1,000	5.6	6.0	3.3
Seating for 50						
<b>BUILDING SUPPORT - SQ. FT. TOTALS</b>			<b>4,410</b>			

Notes: - Pro Shop to have large counter area and display areas; inside and outside elevated seating areas should have views of river, driving range and #10 Tee box.

**DEPARTMENT THREE**

**CART BARN**

	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.
3.00 Cart Storage	65	60	3,900	78.1	50.0
Currently have 55 - may add 10 more					
3.01 Wash Bay	1	120	120	13.7	8.6
3.02 Maintenance	1	120	120	13.7	8.6
3.03 Foreman	5	80	400	25.0	16.0
Workstation					
3.04 Operations	3	80	240	19.4	12.6
Workstation					
3.05 Office Manager	1	120	120	13.7	12.0
Private office					
<b>CART BARN - SQ. FT. TOTALS</b>			<b>4,900</b>		

Notes: -

**DEPARTMENTAL SQ. FT. SUBTOTALS**

**9,810**

**UTILITY**

**UTILITY**

4.00 Mechanical/Electrical Closets @ Approx. 3% of Net Building Sq. Ft. Subtotal	294	21.4	10.0	29.4
4.01 Building Systems/Materials @ Approx. 5% of Net Building Sq. Ft. Subtotal Assuming typical commercial office construction.	491			
Subtotal:	10,595			
4.02 Circulation @ Approx. 10% of Net Building Sq. Ft. Subtotal Need wide corridors (5'-0") min.	981			
<b>Subtotal:</b>	<b>11,576</b>			

**Notes: Area for MEP Closets and Circulation may be reduced depending on interior layout and ability to locate MEP equipment on the outside of the building.**

Department area totals have been taken from or interpreted from the Program Questionnaires as completed by City of Freeport staff members. Please review and comment on the number of spaces requested as well as the preliminary size of each space. Check for duplicated or omitted spaces.



**SUMMARY**

**Proposed Total Sq. Ft. for New Construction** **11,576**

**Anticipated Construction Cost (assuming approx. 1/2 of space is conditioned Clubhouse and 1/2 is unconditioned Cart Barn)**

	Sq. Ft.	\$/Sq. Ft.	Construction Cost
New construction including finished interior office space.	5,788	\$285	\$1,649,552
New construction including finished interior office space.	5,788	\$150	\$868,185

**Preliminary Construction Cost Subtotal** **\$2,517,737**

**Additional cost considerations (Soft Costs Estimates)**

Site Development/Improvements: (parking, lighting, sidewalks, earthwork, etc.)	\$250,000
Landscape/Irrigation:	\$40,000
Exterior Graphics/Signage: (building signage, interior graphics - & monument sign)	\$10,000
Security System: (if necessary)	\$10,000
Furniture: (if not relocating)	\$20,000
Audio/Visual equipment: (if not relocating)	\$5,000
Professional construction materials testing:	\$20,000
Office equipment: (if not relocating)	\$10,000
Relocation/moving costs: (if necessary)	\$0
Professional Fees: (approx. 8% of Const. Costs)	\$201,419

**Preliminary Total Construction Cost** **\$3,084,155**

Consideration of each of the above items in addition to the Anticipated Construction Cost should yield a more accurate representation of the overall Project Cost for this facility.

# CITY OF FREEPORT, TEXAS

Debt Service Fund  
Tax Rate Impact Analysis  
Rates as of December 6, 2022 + 100 bps  
\*\*\*Preliminary\*\*\*

Growth	TY	FY	Taxable Value	I&S Rate	Change in I&S Rate	I&S Revenue	Series 2020	Series 2023*	Total	Excess Revenue
18.8%	2021	2022	636,791,113	0.103309		657,863	490,324		490,324	167,539
1.2%	2022	2023	644,583,920	0.077003		486,422	492,839		492,839	(6,417)
4.0%	2023	2024	670,367,277	0.106564	0.029561	700,081	499,769	200,313	700,081	-
2.5%	2024	2025	687,126,459	0.106564		717,583	498,469	220,000	718,469	(885)
0%	2025	2026	687,126,459	0.106564		717,583	497,994	216,500	714,494	3,090
0%	2026	2027	687,126,459	0.106564		717,583	497,444	218,000	715,444	2,140
0%	2027	2028	687,126,459	0.106564		717,583	497,288	219,250	716,538	1,046
0%	2028	2029	687,126,459	0.106564		717,583	496,613	215,250	711,863	5,721
0%	2029	2030	687,126,459	0.106564		717,583	495,319	216,250	711,569	6,015
0%	2030	2031	687,126,459	0.106564		717,583	498,406	217,000	715,406	2,177
0%	2031	2032	687,126,459	0.106564		717,583	498,569	217,500	716,069	1,515
0%	2032	2033	687,126,459	0.106564		717,583	498,675	217,750	716,425	1,158
0%	2033	2034	687,126,459	0.106564		717,583	498,725	217,750	716,475	1,108
0%	2034	2035	687,126,459	0.106564		717,583	497,606	217,500	715,106	2,477
0%	2035	2036	687,126,459	0.106564		717,583	496,419	217,000	713,419	4,165
0%	2036	2037	687,126,459	0.106564		717,583	499,594	216,250	715,844	1,740
0%	2037	2038	687,126,459	0.106564		717,583	497,038	215,250	712,288	5,296
0%	2038	2039	687,126,459	0.106564		717,583	499,400	219,000	718,400	(817)
0%	2039	2040	687,126,459	0.106564		717,583	499,800	217,250	717,050	533
0%	2040	2041	687,126,459	0.106564		717,583		215,250	215,250	502,333
0%	2041	2042	687,126,459	0.106564		717,583		218,000	218,000	499,583
0%	2042	2043	687,126,459	0.106564		717,583		215,250	215,250	502,333
0%	2043	2044	687,126,459	0.106564		717,583		217,250	217,250	500,333
0%	2044	2045	687,126,459	0.106564		717,583		218,750	218,750	498,833
0%	2045	2046	687,126,459	0.106564		717,583		219,750	219,750	497,833
0%	2046	2047	687,126,459	0.106564		717,583		220,250	220,250	497,333
0%	2047	2048	687,126,459	0.106564		717,583		215,250	215,250	502,333
						19,066,365	9,450,288	5,417,563	14,867,851	4,198,514

**2023 Statistics**

Total Debt Service	\$5,417,563
Average Annual Debt Service	\$216,703
All-in True Interest Cost	5.17%

**Sources and Uses of Proceeds**

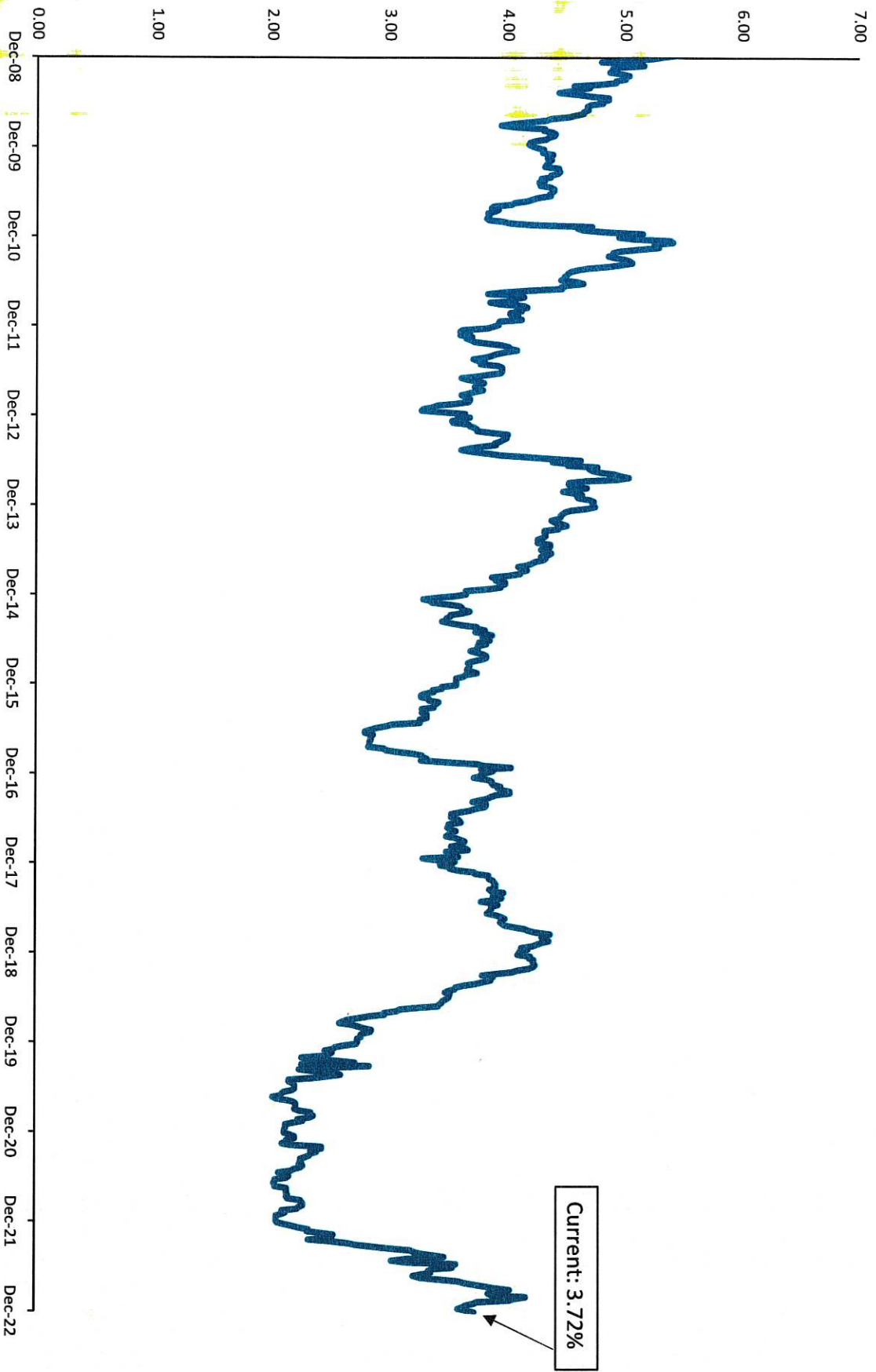
Par Amount	\$3,135,000
Premium	40,890
<b>Total Sources</b>	<b>\$3,175,890</b>

**Tax Rate Sensitivity:**

	Tax Rate Impact	\$100,000 Home
Now	0.027420	\$27.42
+50 bps	0.028467	\$28.47
<b>+100 bps</b>	<b>0.029561</b>	<b>\$29.56</b>
+150 bps	0.030766	\$30.77

Project Fund	\$3,084,155
Cost of Issuance	76,735
Underwriter's Discount	15,000
<b>Total Uses</b>	<b>\$3,175,890</b>

# Bond Buyer 20 Bond GO Index 15 Year History



# BRACEWELL

## MEMORANDUM

To: City of Freeport, Texas

From: Jonathan K. Frels

Date: December 19, 2022

Subject: Election Timeline for the May 6, 2023 Uniform Election Date – City of Freeport, Texas (the “City”)

This memorandum outlines some of the major deadlines for a potential bond election (“Election”) to be held by the City on the May 6, 2023 Uniform Election Date (“Election Day”). In addition to providing a general timeline, we wanted to highlight some recent changes in Texas election laws. During the last legislative session, the legislature modified the standards for what may be included in bond propositions. As a result, it will be important for us to begin discussions regarding the contents of the bond proposition well in advance of the deadline for calling the Election. Additionally, state law now requires the preparation of a voter information document for each proposition on the ballot. The preparation of the voter information documents is a time-consuming process that will also need to commence prior to the adoption of the election ordinance. The timeline, below, includes additional information on the voter information document requirement. Finally, please note that the Office of the Attorney General will require proof of posting and publication of the documents described in this timeline. We will prepare the appropriate affidavits and certificates for execution.

1. February 5, 2023: The first date on which the Election may be called.<sup>(i)</sup>
2. February 17, 2023: The last date on which the Election may be called.<sup>(ii)</sup>
3. March 7, 2023: The last date by which notice of the Election, including the location of each polling place, must be submitted to the County Clerk and voter registrar (60 days before Election Day).<sup>(iii)</sup> The notice must be provided in English and Spanish.<sup>(iv)</sup>
4. April 6, 2023 – April 22, 2023: The dates within which the first of two notices of the Election must be published in a newspaper published in the jurisdiction of the City, or if no newspaper is

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published in the jurisdiction of the City, then in a newspaper of general circulation in the City.<sup>(v)</sup> The notice, which is typically a copy of the ordinance calling the Election, must state the nature of the Election, including the proposition to be voted on; the location of each polling place; the hours the polls will be open; and the City's Internet website.<sup>(vi)</sup> The notice must be published on the same day in each of two successive weeks, and the first publication must be not later than April 22, 2023.<sup>(vii)</sup> The notice must be published in English and Spanish.<sup>(viii)</sup>

5. April 15, 2023: The last date on which the voter information document for each proposition must be posted *prominently in an easily accessible manner* on the website of the City (not later than the 21<sup>st</sup> day before Election Day).<sup>(ix)</sup> A separate voter information document must be prepared for each proposition to be voted on at the election and must state the following:

- (i) the language that will appear on the ballot;
- (ii) the following information formatted as a table:
  - (a) the principal of the debt obligations to be authorized;
  - (b) the estimated interest on the debt obligations to be authorized;
  - (c) the estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized;
  - (d) as of the date the City adopts the debt obligation election ordinance:
    - (1) the principal of all outstanding debt obligations of the City;
    - (2) the estimated remaining interest on all outstanding debt obligations of the City, which may be based on the City's expectations relative to the interest due on any variable rate debt obligations; and
    - (3) the estimated combined principal and interest required to pay on time and in full all outstanding debt obligations of the City, which may be based on the City's expectations relative to the interest due on any variable rate debt obligations;
- (iii) the estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the City with an appraised value of \$100,000 to repay the debt obligations to be authorized, if approved, based upon assumptions made by the governing body of the City; and

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December 19, 2022

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- (iv) any other information that the City considers relevant or necessary to explain the other information required in the voter information document.<sup>(x)</sup>

The voter information document *must remain posted through the next day following Election Day.*<sup>(xi)</sup> The information must be posted in English and Spanish.<sup>(xii)</sup>

6. April 15, 2023: The last date on which the (1) ordinance calling the election (which contains the contents of the proposition and serves as notice of the Election (see paragraph 4 above)), (2) a sample ballot, and (3) the voter information document(s) (see paragraph 5 above) must be posted prominently on the City's website (not later than the 21<sup>st</sup> day before Election Day).<sup>(xiii)</sup> The information must be posted in English and Spanish.<sup>(xiv)</sup>
7. April 15, 2023: The last date on which to post on the City's website notice of (1) the date of the election; (2) the location of each polling place; and (3) each measure on the ballot.<sup>(xv)</sup> The information must be posted in English and Spanish.<sup>(xvi)</sup>
8. April 15, 2023: The last date on which to post (1) notice of the Election (i.e. the election ordinance) and (2) the voter information document (see paragraph 5 above) on the bulletin board used for the posting of notices of City Council meetings.<sup>(xvii)</sup> The information must be posted in English and Spanish.<sup>(xviii)</sup>
9. April 15, 2023: The last date on which to post a copy of (1) the election ordinance and (2) the voter information document (see paragraph 5 above) in at least three (3) public places within the boundaries of the City and City Hall.<sup>(xix)</sup> The information must be posted in English and Spanish.<sup>(xx)</sup>
10. April 15, 2023: The last date for the County to post the notice provided under Section 3 of this memorandum on the County's internet website.<sup>(xxi)</sup> The Attorney General will require a screenshot of the posting and a certificate of posting signed by the County in connection with submitting the bond transcript of proceedings.
11. April 24, 2023 – May 2, 2023: Early voting period.<sup>(xxii)</sup> A copy of (1) the election ordinance and (2) the voter information document(s) (see paragraph 5 above) must be posted in a prominent location in each polling place throughout the early voting period.<sup>(xxiii)</sup> The information must be posted in English and Spanish.<sup>(xxiv)</sup>

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December 19, 2022

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12. May 6, 2023: Election Day.<sup>(xxv)</sup> A copy of (1) the election ordinance and (2) the voter information document(s) (see paragraph 5 above) must be posted in a prominent location in each polling place on Election Day.<sup>(xxvi)</sup> The information must be posted in English and Spanish.<sup>(xxvii)</sup>
13. May 9, 2023 – May 17, 2023: The dates within which the local canvass must occur.<sup>(xxviii)</sup> The canvass may not occur prior to the date on which the early voting ballot board has verified and counted all provisional ballots, or the date on which all timely received ballots cast from addresses outside of the United States are counted, as applicable.<sup>(xxix)</sup>
14. Promptly After Canvassing Results.<sup>(xxx)</sup> The City must post on its website the following information: (1) the results of the Election, (2) the total number of votes cast, (3) the total number of votes cast for or against each measure, (4) the total number of votes cast by personal appearance on Election Day, (5) the total number of votes cast by personal appearance or mail during early voting and (6) the total number of counted and uncounted provisional ballots. The information must be available through no more than two clicks from the City's homepage.

\* \* \* \* \*

If you have any questions, please do not hesitate to contact Jonathan Frels at (713) 221-1599.

JKF

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- (i) Not more than 90 days from the date of the election ordinance, pursuant to Section 1251.003(c) Texas Government Code.
  - (ii) Not later than the 78th day before Election Day, pursuant to Section 3.005(c) of the Texas Election Code.
  - (iii) Not later than the 60th day before Election Day, pursuant to Section 4.008 of the Texas Election Code.
  - (iv) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (v) First publication to be no earlier than the 30th day or later than the 14th day before Election Day, pursuant to Section 4.003(a)(1) and Section 4.003(c) of the Texas Election Code and Section 1251.001(e) of the Texas Government Code.
  - (vi) Section 4.004 of the Texas Election Code.
  - (vii) Section 1251.003(e) of the Texas Election Code.
  - (viii) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (ix) Not later than the 21<sup>st</sup> day before Election Day, pursuant to Section 1251.052(d) of the Texas Government Code.
  - (x) Section 1251.052(b) of the Texas Government Code.
  - (xi) Section 1251.052(d) of the Texas Government Code.
  - (xii) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.

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December 19, 2022

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- (xiii) Not later than the 21<sup>st</sup> day before Election Day, pursuant to Section 4.003(b) of the Texas Election Code.
  - (xiv) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xv) Section 4.009(b) of the Texas Election Code.
  - (xvi) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xvii) Section 4.003(b) of the Texas Election Code.
  - (xviii) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xix) Section 4.003(f) of the Texas Election Code and Section 1251.003(d) Texas Government Code.
  - (xx) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xxi) Pursuant to Section 4.003(b) of the Texas Election Code.
  - (xxii) Pursuant to Section 85.001(e) of the Texas Election Code, this period generally runs from 12 days to 4 days before Election Day for a May election.
  - (xxiii) Not later than the 21<sup>st</sup> day before Election Day, pursuant to Section 4.003(f) of the Texas Election Code.
  - (xxiv) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xxv) The uniform election date for a May election is the first Saturday in May in an odd-numbered year, pursuant to Section 41.001(a)(1) of the Texas Election Code.
  - (xxvi) Section 4.003(f) of the Texas Election Code.
  - (xxvii) Pursuant to Voting Rights Act of 1975, as amended, election information must be provided in English and Spanish for elections held within the City.
  - (xxviii) For a May election, the canvass must occur not earlier than 3 days after Election Day and not later than 11 days after Election Day, subject to certain prerequisites outlined in Section 67.003 of the Texas Election Code.
  - (xxix) Section 67.003 of the Texas Election Code.
  - (xxx) Section 65.016 of the Texas Election Code.



State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, December 19, 2022 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 Jeff Pena  
Councilman Jerry Cain  
Councilman Mario Muraira

Staff: Tim Kelty, City Manager  
Lance Petty, Assistant City Manager/PWD  
Betty Wells, City Secretary  
Clarisa Molina, Administrative Assistant  
David Olson, Interim City Attorney  
Cathy Ezell, Finance Director  
Toby Cohen, IT Manager  
Jennifer Howell, Freeport Police Chief  
Donna Fisher, Human Resource Director  
Laura Cramer, GIS & Special Projects Coordinator  
Kacey Roman, Building Official  
Robert Johnson, EDC Director  
Chris Motley, Fire Chief

Visitors: George Matamoros Karla Clark  
Sam Reyna Joe Penfield  
Kenny Hayes Pam Dancy  
Ruby Marshall Shonda Marshall  
Tom Pearson Ben Kelty  
Alma Kelty Kent Holle (Facts)

**Call to order.**

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

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Invocation was led by City Manager, Tim Kelty, Pledge was led by Mayor Bass.

**CITIZENS' COMMENTS:**

Karla Clark spoke of her concerns of the water outage in the Bridge Harbor area. She said there needs to be more notice to the residents, and the businesses in this area. She said the Everbridge sent out two notices. She spoke of the Planning and Zoning agenda she was emailed. She said the agenda was changed. She said the information that was given, is not the same that was presented at the meeting.

Pam Dancy spoke to council of her concern of the Open Meetings Act that are not being taken care of properly. She said she wants to talk about the meeting on the 12<sup>th</sup>. She said Mr. Olson made the comments that were picked up on a mic, about two councilmen who were late. She said this community comes together during hard times. Ms. Dancy said Ms. Wells and Mr. Kelty are not allowed in Executive Session, per the Open Meeting Acts.

Tom Pearson spoke of the obstruction on Ave. A and Brazosport Boulevard. Mr. Pearson said when you pull to the light, you cannot see anything because of the bushes.

Jeff Pena spoke to council as a citizen. He said he remains committed to working hard for the citizens of Freeport. He said he wants to announce he will be running for re-election in 2023. He spoke of an ongoing campaign by the City Manager, and supported by Mayor Bass to injure him politically. Mr. Pena asked that the Executive Session item “accusing a Councilman of Creating Hostile Workplace” be moved to the Regular Session as the first item.

Shonda Marshall spoke to council of the new website for the Freeport EDC.

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

Presentation of Employee of the Month for the Month of October 2022.

Mr. Kelty presented the employee of the month to Kris Vierra, for the month of October 2022.

Presentation of the Annual Storm Water Report.

Laura Cramer, GIS Special Projects Coordinator, presented to council the Annual Storm Water Report.

Police Chief Howell introduced the new Patrol Officers and the new ACO to Council.

### **CONSENT AGENDA**

Consideration and possible action on the approval of City Council meeting minutes from November 21, and December 12, 2022.

Consideration and possible action approving date change for the first and second City Council Meetings in January 2023, due to the New Years and Marin Luther King, Jr. Holidays.

Second reading, Consideration and possible action on Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program.

Councilman Pena asked that item #5 be pulled from Consent Agenda.

A motion was made to approve the consent agenda item #'s 3 & 4 by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved the Consent Agenda, items # 3 & 4.

## **COUNCIL REGULAR AGENDA**

### **Second reading, Consideration and possible action on Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program**

Councilman Pena asked Freeport EDC Director Robert Johnson, what the budget is for the Grant Program? Mr. Johnson said it is \$150,000. Councilman Pena asked if this amount should be expanded? Councilman Cain the Liaison for the EDC said his opinion, \$150,000 is a good goal, and should we need to expand then we can do a budget amendment.

A motion was made to approve Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant program by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved Resolution 2022-2768 for the approval of the EDC Project – 2022/2023 Local Small Business grant.

### **Consideration and possible action regarding the report of Charter Review Commission recommendations to place items on Charter Review Election Ordinance.**

Karla Clark spoke to council about the Charter recommendations that will be voted on in May.

Sam Reyna spoke on the recommendation made by the Charter Review Board, for the 180 days for a recall petition instead of the 45 days that is now allowed per the Charter.

Pam Dancy spoke on the recommendations for the Charter, she asked about the Sections and how they will follow the State Law.

Mayor Bass said there are 16 proposed questions to possibly be placed on the Charter Ballot in May of 2023. Mayor Bass read each of the proposed questions, and there was discussion on each of the questions. Direction was given to City Attorney so the item could be brought back for action in January.

No action was taken on this item.

### **Consideration and possible action approving contract with the Brazoria County SPCA.**

City Manager presented to Council the possible action approving the contract with the Brazoria County SPCA. He said the current contract will expire February 2023, and the agreement being presented will extend the current agreement until September 2024.

Pam Dancy asked what will happen after this contract ends? Mayor Bass said as a council we will have to make some big decisions of where we go from here.

A motion was made to approve the contract with the Brazoria County SPCA, by Councilman Pena, seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved contract with the Brazoria County SPCA.

Consideration and possible action on the purchase of two new vehicles for the Freeport Police Department.

Police Chief, Jennifer Howell presented to council the possible action to approve the purchase of two new vehicles for the Freeport Police Department. She said this is a budgeted item. Chief Howell said these units will be fully fitted.

A motion was made to approve the purchase of two new vehicles for the Freeport Police Department, by Councilman Cain, seconded by Councilman Pena. With all present voting "Aye" 4-0 council unanimously approved the purchase of two new vehicles for the Freeport Police Department.

Consideration and possible action on awarding contract for road improvements in Freeport Community House Park.

Assistant City Manager, Lance Petty presented to council the possible action on awarding contract for road improvements in Freeport Community House Park. He said this has been amended to improve the visibility issues and the safety of the citizens and children that utilize the playground on the North Side of the levee. The cost of this project is \$42,667.90. He said this excludes the widening of the Eastern Entry Road at the T-Dock.

A motion was made awarding contract for road improvements in Freeport Community House Park by Councilman Cain, seconded by Mayor Bass. With discussion that followed.

Councilman Cain said this is a safety issue, and it is important we get this done.

Councilman Muraira asked if we can table this and add the levee walk trail? Mayor Bass said we will have to wait for three months. Councilman Muraira said he would like to use as much of the \$150,000 allocated for this.

Councilman Pena said he would like to see the levee jog trail added to this. He said it will add safety to drivers and the joggers.

Councilman Cain said he would like to see the vote pass for the safety of the children.

Mayor Bass called the motion for a vote, with a 2-2 vote, motion fails. Mayor Bass and Councilman Cain voted "Aye" Councilmen Pena and Muraira voted "Ney."

Consideration and possible action on approving the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract.

IT Manager Toby Cohen presented to council the possible action approving the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract. He said the cost of the contract is \$124,439.39 this will include software, and help the city to become more paperless system. All documents will be scanned and stored on the cloud.

A motion was made to approve the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract, by Councilman Cain, seconded by Councilman Pena.

Karla Clark asked if the documents will be boxed up and removed from City Hall. Mr. Kelty said yes, the company is licensed and bonded to do this.

There was discussion by council.

Mayor Bass called the motion to a vote, with all present voting “Aye” 4-0 council unanimously approved the scanning contract with Professional Document Systems, Inc., and authorizing the Mayor to sign the resulting contract.

Consideration and possible action approving a Copier Contract for City offices.

IT Manager Toby Cohen, presented to council the possible action of approving a Copier Contract with Platinum Copier Solutions, for City Offices. He said this will save the City approximately \$55,000 over 63-month contract. Mr. Cohen said this does include maintenance. Mr. Cohen said we are replacing existing copiers, and adding one.

A motion was made to approve the Copier Contract for City Offices, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Copier Contract with Platinum Copier Solutions for City Offices.

Consideration and possible action to approve the Windstorm Insurance Policy Renewal.

Finance Director, Cathy Ezell presented to council the approval of the Windstorm Insurance Policy Renewal. She said the policy will expire January 6, 2023. Ms. Ezell said we have to replace the windows at the library, and the roof on the museum before we can get coverage on these buildings.

A motion was made to approve the renewal of the Windstorm Insurance Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved the renewal of the Windstorm Insurance Policy.

Consideration and possible action approving a Resolution No. 2022-2772, amending the Financial Management Policy.

Finance Director, Cathy Ezell presented to council Resolution No. 2022-2772, amending the Financial Management Policy. She said this is a requirement to be changed to meet Federal and State guidelines for applying for Grants. She said the City does the required changes now, but this must be in writing.

A motion was made to approve Resolution No. 2022-2772, amending the Financial Management Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Resolution No. 2022-2772, amending the Financial Management Policy.

Consideration and possible action approving a Resolution No. 2022-2773, amending the Purchasing Policy

Finance Director, Cathy Ezell presented to council Resolution No. 2022-2773, amending the Purchasing Policy. Ms. Ezell said this is also a requirement to be changed to update the Federal Procurement policy, to be compliant with all Federal and State requirements in order to apply for this Grant.

A motion was made to approve Resolution No. 2022-2773, amending the Purchasing Policy, by Councilman Cain, seconded by Councilman Muraira. With all present voting “Aye” 4-0 council unanimously approved Resolution No. 2022-2773, amending the Purchasing Policy.

Consideration and possible action approving Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022.

Finance Director Cathy Ezell presented to council Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022. Ms. Ezell said this is the final Budget Amendment for FY 2021/2022. She said this is for all year end budget overages.

A motion was made to approve Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022, by Councilman Pena, seconded by Councilman Cain. With all present voting "Aye" 4-0 council unanimously approved Ordinance No. 2022-2684, for Budget Amendment #5 for FY 2021/2022.

Consideration and possible action approving Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023.

Finance Director Cathy Ezell presented Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023. She said this proposed Budget Amendment is the first of the year. She said it is to roll the funds for the projects that were not completed in the last FY 2021/2022.

A motion was made to approve Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023, by Councilman Cain, seconded by Councilman Muraira. With all present voting "Aye" 4-0 council unanimously approved Ordinance No. Ordinance No. 2022-2685, for Budget Amendment #1 for FY 2022/2023.

**WORK SESSION:**

Councilman Pena thanked all that have come out to council. He wished all Happy Holidays, and congratulated the new Officers that were recognized tonight. Councilman Pena asked about Officer Stone who was injured. Chief Howell said he is well and back on duty. He thanked the Museum for putting on great Market Event. He thanked the Parks Department for all the lights that were put up, on 288 and Brazosport. He also said he wants to make known the lights that were placed on 2<sup>nd</sup>, Park, Broad and Memorial Park are not working at all.

Councilman Cain wished everyone a Merry Christmas, and a safe New Year.

Councilman Muraira asked about the 8<sup>th</sup> Street re-work. Mr. Petty said the engineers approved a grinding machine for the contractor to use. He said the surface has be grinded down and is complete. Councilman Muraira said it is smooth, and it is good work. Councilman Muraira asked if there is an update on the lighting plan? Mr. Kelty said we are waiting on the correct map from Centerpoint. He said once the approved plan is sent, they will begin the work. Councilman Muraira said the trash service will remain the same through the holidays. Councilman Muraira asked Mayor Bass if there is a Strategic Plan we are following? He said elections are coming up, and asked if there is anything in particular that the Mayor knows more about, than he does? As far as what direction the City of Freeport is going. Mayor Bass said we had the Strategic Planning retreat that each Councilman and the Mayor could put forth what they thought were important for the City of Freeport, and it translated from the Strategic Plan, into a Budget. He said we want to fulfill our commitment to our citizens, to our infrastructure. Mayor Bass said he hopes we work together as council for our citizens. Councilman Muraira said he thinks that he and Mayor Bass should have more conversations, without violating any rules. Councilman Muraira asked about the Alley on 6<sup>th</sup> and 7<sup>th</sup> so the water can flow. Mr. Petty said the asphalt was laid wrong on the elevation. Mr. Petty said we did a soft cut and we will get it repaved so the water will flow.

City Manager Tim Kelty said there will be warming shelter at the Rec Center for the cold weather that will be coming in on Thursday and Friday. He said we are on track to advertise for bids for the Sanitary Sewer Collection for the Grant Project. He said in January we will be bringing the Golf Course Club House for discussion. Mr. Kelty said council authorized the preliminary architectural work. He said we have the cost estimates, and we have been talking with Financial Advisor and Bond Counsel. He said council will have to decide if we move forward with a Bond Election, for this project. Mr. Kelty said we are working with TxDot for a Grant for sidewalks, and for shelter for the Transits Bus System. Mr. Kelty announced that in January we will be providing for Council Members a tablet for council meetings. He also recognized the Public Works Department for the work that was done for Holiday on the Brazos.

Councilman Pena spoke of the monitoring of the drug activity downtown alleyways. He thanked the Parks Department for cleaning out the alley. He requested that there be continued patrol out in this area.

Mayor Bass said he has a statement to a comment made by Mr. Pena in citizens comments. Mayor Bass said Mr. Pena said "I, Mayor Bass have a political motivation to get him. To censure him". Mayor Bass said he has no political motivation, he is not seeking re-election. He expects people to be responsible to their own words and their own actions.

#### Update on reports / concerns from Department heads

#### **CLOSED SESSION:**

Open Session was closed at 8:29 PM.

Executive Session was closed at 8:33PM.

Councilman Pena made a motion to exclude Mr. Kelty and Ms. Wells in Executive Session, seconded by Councilman Muraira. Mayor Bass and Councilman Cain voted "Ney".

An amended motion by Councilman Pena to invite Mr. Kelty and Ms. Wells into Executive Session, seconded by Councilman Muraira. With a 2-2 vote motion fails.

Open Session was closed at 8:36 PM.

Executive Session was closed at 9:46 PM.

No action was taken from Executive Session.

Open Session 9:46 PM

#### (Personnel Matters) Complaint asserting a Hostile Workplace regarding comments made by a Councilman to a city employee.

Mayor Bass introduced the item. Councilman Pena made a motion for the City Attorney to facilitate the process on this item, because he feels Mayor Bass has been biased. Motion was seconded by Councilman Muraira. City Attorney David Olson said he is willing to do so if the majority of Council wants me to preside over it I will, but it will be very unusual for the lawyer to act in that role. With a 2-2 vote, the motion failed. Mayor Bass and Councilman Cain voted "Ney". Councilmen Muraira and Pena voted "Aye".

Mayor Bass said the complaint is from an employee, against a sitting councilmember and is something that should be taken very seriously. He said this was originally slated for Executive Session, but at the request of Councilman Pena, who the complaint was about, this discussion will be held in Open Session, which is his right. The complaint alleged actions by Councilman Pena created hostile work environment. Mayor Bass said that portions of the comments were on video and audio, and portions were witnessed by me and Councilman Muraira.

Mayor Bass read the complaint, and provided it as a Public Record.

Mayor Bass asked Councilman Muraira if he saw Ms. Wells crying? Councilman Muraira said “he will not participate in this political game of yours”.

Mayor Bass invited Ms. Wells to make a statement. Ms. Wells said “I am not one to file a complaint, and hate chaos. Ms. Wells told Councilman Pena you know how you spoke to me, you know how you talked to me, and you know you called my work half-assed. You called me a liar on your way out the door. Ms. Wells told Councilman Muraira, you told me you were sorry for how Councilman Pena talked to me, that he had no right, and you were going to talk with him. I have been an employee for 17 years, and I have never had to deal with anything like this. I’m shocked, I’m hurt, I’m embarrassed and I’m angry. Ms. Wells said something has to be done, this has to stop, his intimidation and inconsideration to employees.

Councilman Pena criticized the Mayor for his facilitation saying he was putting the City at legal risk.

Mayor Bass asked Ms. Wells to detail the circumstances around the complaint. Ms. Wells explained that Councilman Pena got flustered when he couldn’t find pages in his packet, because he had got them out of order. Councilman Pena interjected that the video will show that he was asking for parts of the packet that were not included in the packet he was given, Ms. Wells said she can guarantee he receives the same packet as everyone, I don’t go into your packet and take paper out.

Councilman Muraira said that he did witness the event take place, but he feels this could have been taken care of in house. He said that he does not feel this should be brought out into the public. Mayor Bass said, Councilman Pena is the one who asked that it be brought to Open Session.

Councilman Cain said he was leaving when all of this started. He said as he was leaving, he thought they were joking about the binder as well. He said as he got outside council chambers, he noticed voices were rising. He poked his head back in and said the mics are still on. At this point they killed the mics.

Mayor Bass said he was signing documents at the end of the meeting, I heard some back and forth and I thought it was joking as well. He said, what caught his attention is when he heard a cuss word. This is when he looked and saw Betty’s face. It looked distraught, it looked sad, and there were tears coming down. Mayor Bass said he also saw Mr. Matamoros standing nearby.

Councilman Pena said that he takes pride in his position as a volunteer, as an elected official for City Council for City of Freeport, for Ward A and all of Freeport. Councilman Pena recommended that we replay the video, not from just the meeting from the November 7<sup>th</sup>, but for all meetings. And see, the Mayor and other Councilman be completely outlandish, completely disruptive. He said remember what his composure was at these times. He said he wants to make sure we are not mischaracterizing based on the verbal account, of Ms. Betty Wells and Mayor Bass.



Councilman Pena asked Ms. Wells, to confirm that she made allegations against him creating a hostile workplace. He asked her to confirm the actions that were said, this was explained earlier in the meeting. He asked her to confirm that she prepares the binders for every meeting. She confirmed the answer to these questions as being yes. He asked if other councilmembers have papers that he doesn't, would she be responsible, and would it be fair to ask about that. Councilman Pena said he has made it known that he has documents missing from his binder. That he borrows the documents from Mr. Kelty, or from Councilmembers. He said that the only Councilman missing documents is him. Councilman Pena asked Ms. Wells, isn't it reasonable that I ask for a complete agenda meeting packet that you provide to other Councilmen?

Ms. Wells responded that the packet she was holding is the original packet. It gets scanned and copied. Every binder is made off of this, including yours Councilman Pena. I think what happens is Councilman Pena gets flustered. You get turned around and you get your stuff mixed up.

Councilman Pena asked Ms. Wells about the video from November 7 meeting. He stated as the City Secretary you are a Corporate Secretary and Public Official, responsible for making and preserving records of the City. The conversation that took place was recorded, on Facebook Live, so we don't have to take anyone's word as to what was said. Except the audio was cutoff during our conversation, yet the live feed was not. Councilman Pena accused Ms. Wells of editing the audio of Facebook Live. Mr. Olson said take a step back that the recording visual and audio is only for the time the meeting is in session.

Councilman Pena said he has been informed that Ms. Wells is intending to sue the City for a hostile workplace. Councilman Pena asked Ms. Wells who the hostile workplace language came from that was included on the agenda. Mr. Kelty said he was responsible for including that language in Executive Session, based on the complaint letter received. Executive Session language was sent to Mr. Olson who made final edits and approved.

Councilman Pena asked Mr. Olson if he advised Ms. Wells, or Mr. Kelty or the Mayor that they should not use hostile workplace on the Agenda. Mr. Olson said no. Councilman Pena asked Mr. Olson if he approved the language for the agenda? Mr. Olson said yes. Councilman Pena said the legal definition of hostile workplace refers to discrimination, based on race, gender, religion, etc., and at no time did any of these qualify deemed as hostile workplace. So why was it allowed to be placed on the agenda? Mr. Olson said he consulted with their labor employment division and the allegations would constitute the elements of a hostile workplace. Mr. Olson said I have absolutely no problem with the way it was worded on the agenda. Councilman Pena alleged the language was put on the agenda to help Betty make a legal claim against the City. And person that allowed or sanctioned it, is working against the interest of the city.

Councilman Pena said this is nothing more that a smear campaign and an attempt to disparage my name, reputation in hopes to discourage people from voting for me. Councilman Pena asked why we put the city in legal jeopardy by putting hostile workplace on the agenda. Councilman Pena said this is just a big circus act. This is not what we are suppose to be doing. We are supposed to paving streets, building parks, helping families live better lives in Freeport. Now I am having to defend myself against personal attacks, because people don't like that I ask questions for transparency, and ask question about balanced budgets, or faulty contracts that the city was involved in, that we had to do investigations for. He said this is a big attempt for me to be silenced and discredited. He said they are going to put a little tinge on my reputation by censuring me. He said a censure is simply a hand slap, that you did bad. He said there is so much more going on here, to take this item and try an legitimize it and make a mountain out of a molehill, to potentially make a harmful lawsuit against the city by Ms. Wells is irresponsible.

Councilman Pena said look at the video and you will see the language and the posture and my temperament. He said don't mistake my insistence on being heard, as me being hostile. I am just fighting for my good name.

Adjourn

On a motion by Councilman Pena, seconded by Councilman Cain, with 3-1 vote, Mayor Bass adjourned the meeting at 10:30 P.M. Mayor Bass voted "Ney"

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Mayor, Brooks Bass  
City of Freeport, Texas

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City Secretary, Betty Wells  
City of Freeport, Texas



## City Council Agenda Item # 3

**Title:** Consideration and possible action approving the 2023 Mardi Gras Festival Road Closures -February 18, 2023

**Date:** January 9, 2023

**From:** Ana Silbas, Main Street Coordinator

**Staff Recommendation:**

Main Street Staff recommends the approval of road closures for the 2<sup>nd</sup> Annual Mardi Gras Festival in Historic Downtown Freeport. This event was created to highlight our designated Main Street Area in accordance to the Main Street Four Point Approach.

**Item Summary:**

The Freeport Historical Commission & Main Street Advisory Board will host the 2<sup>nd</sup> Annual Mardi Gras Festival on Saturday, February 18, 2023 from 12pm-5pm in Downtown Freeport. The planned activities for this event include a chicken & sausage Gumbo Cook-Off, King Cake Eating Contest, LT and the Zydeco Mob Band and other activities. The festivities will kick off with a parade including decorated floats with candy and beads by community businesses and organizations. Freeport Main Street is partnering with St. Mary Star of the Sea Catholic Church to utilize the parking lot on Velasco for all parade floats. The parade route will head north on Velasco, take a right on 2<sup>nd</sup> Street and travel down to West Park, which will be reserved for parade participants to set up for the day and enjoy the Mardi Gras festivities.

The requested road closures on Saturday, February 18, 2023 include the following:

- 9:00 AM- 6:00 PM      W. Park from 2<sup>nd</sup> Street to 4<sup>th</sup> Street (for parade traffic only)  
                                  E. Park from 2<sup>nd</sup> Street to 4<sup>th</sup> Street  
                                  Road Barrels at Broad and E. Park alley  
                                  Road Barrels at Broad and East Side of W. Park
  
- 11:30 AM- 12:30 PM    7<sup>th</sup> Street at Velasco and St. Mary’s Parking Lot  
                                  Velasco from 7<sup>th</sup> Street to 2<sup>nd</sup> Street-All Intersections  
                                  2<sup>nd</sup> Street from Velasco to W. Park-All Intersections

**Background Information:**

Despite inclement weather, the event was well received by those in attendance. Freeport Main Street would like to work to increase community participation for the 2023 event.

**Special Considerations:**

N/A

**Financial Impact:**

The sale of event t-shirts and Gumbo Cookoff wristbands to sample gumbo will help to recuperate a percentage of the festival expenses. Freeport Main Street has a budget of \$6,500 for the 2<sup>nd</sup> Annual Mardi Gras Festival and received a \$3,500 marketing sponsorship from the Freeport Economic Development Corporation.

**Board or 3<sup>rd</sup> Party recommendation:**

N/A

**Supporting Documentation:**

Map of Proposed Road Closures Parade Route and Downtown, Event Rack Card (Front & Back) and Proposed Event Budget

  
 MAIN STREET  
 FREEPORT  
**MARDI  
 GRAS  
 FESTIVAL**  
 FEBRUARY 18, 2023

**12PM  
 PARADE**

**GUMBO  
 COOK-OFF**  
 -----  
**LIVE  
 MUSIC**

**FAMILY  
 FUN  
 ACTIVITIES**

**HISTORIC DOWNTOWN FREEPORT- MEMORIAL PARK**  
 12pm-5pm Contact: Ana Silbas, Main Street Coordinator  
 asilbas@freeport.tx.us | PH: 979-871-0114

*In Partnership With:*

**FREEPORT**  
 ECONOMIC DEVELOPMENT CORPORATION

**CHICKEN & SAUSAGE  
 GUMBO  
 COOK-OFF**

**TEAM REGISTRATION**  
 REGISTER BEFORE FEBRUARY 13TH  
 \$10 Wristbands- ALL YOU CAN SAMPLE GUMBO!  
 CASH ONLY

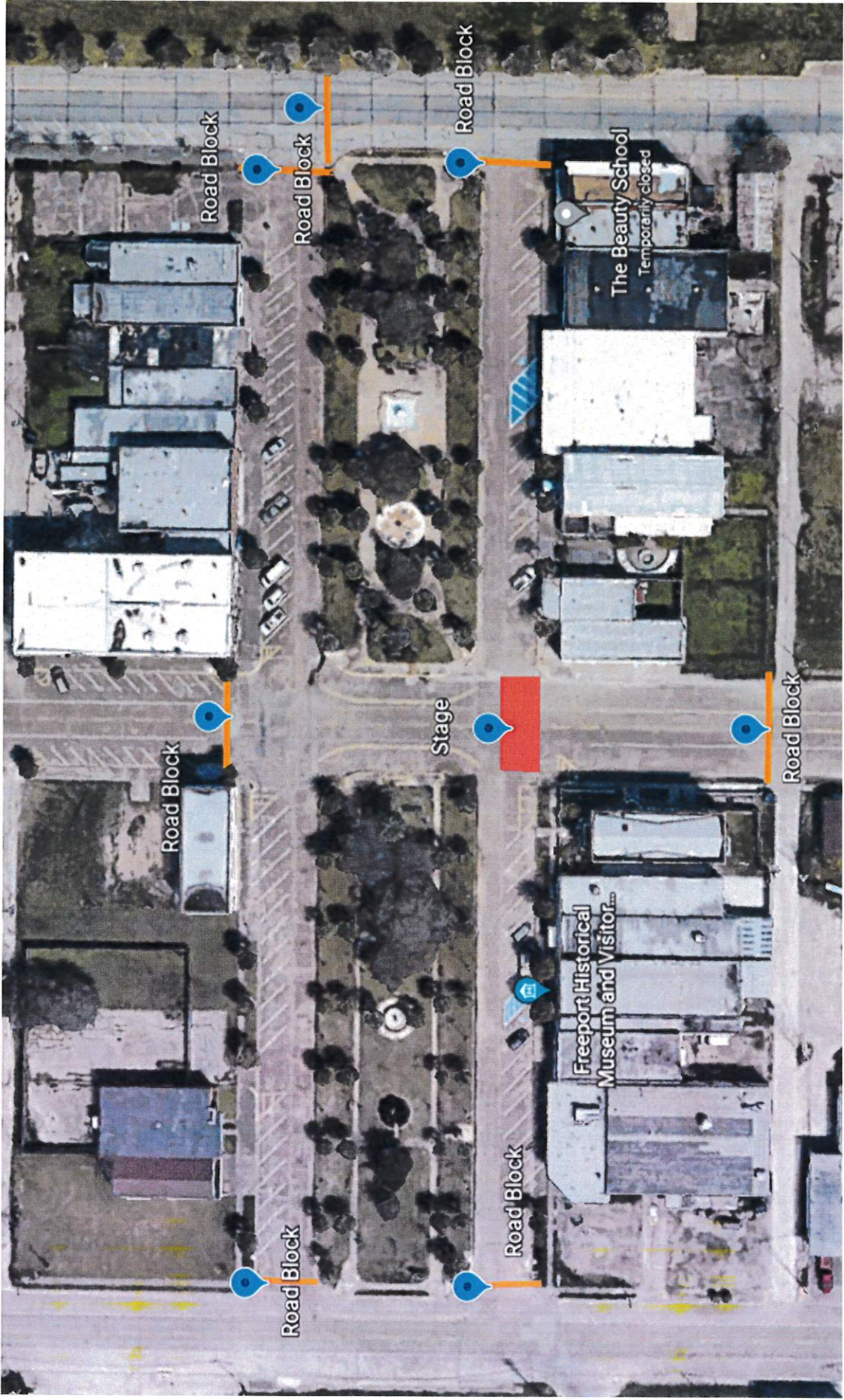
**FLOAT  
 PARADE**

APPLICATIONS AVAILABLE AT  
 FREEPORT CITY HALL FOR  
 COOK-OFF & FLOAT PARADE ENTRY  
 200 W. 2nd Street

For more info : 979-871-0114  
 asilbas@freeport.tx.us

 **Main Street Freeport TX**





## 2023 Proposed Budget for Mardi Gras Celebration

Account Description	Advertising	Special Events	TOTAL
<b>Mardi Gras Celebration</b>			
Portable Restrooms/Handwashing Stations		750	750
Music Entertainment- 3 Hours		1,000	1,000
DJ/Emcee- 6 Hours		750	750
Face Painting-4 Hours		400	400
Strolling Performers (2)		1,000	1,000
Prizes		350	350
Parade		0	0
Tent		650	650
King Cake Eating Contest		500	500
Beer		1,000	1,000
T-Shirts to sell		800	800
Beads, coins, balloons, candy		1,250	1,250
Rack Cards	150		150
Print, Social Media Ads	500		500
Photographer	400		400
Videographer	500		500
<b>Subtotal</b>	<b>1,550</b>	<b>8,450</b>	<b>10,000</b>
Main Street Mardi Gras Budget			<b>6,500</b>
<b>EDC Sponsorship Request</b>			<b>3,500</b>





## City Council Agenda Items # 4

**Title:** Conduct a Public Hearing and consider action on Ordinances changes to the zoning ordinance to amend regulations to allow for existing housing to retain legal non-conformance in case of property destruction.

**Date:** January 9, 2022

**From:** Kacey Roman, Director of Building and Code

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**Staff Recommendation:** Staff recommends that the City Council hold the public hearing to receive input on the proposed change and adopt the recommended ordinance.

**Item Summary:** The issue of residential development in the downtown zoning district has been discussed for several months, and as a result several issues have been raised in connection. One of those issues is in regard to the effect accidental destruction has on existing residential properties in the downtown.

Currently the ordinance states that all non-confirming properties, if destroyed by more than 50% for any reason would lose their legal non-conformance and upon redevelopment would have to be conforming to the no residential development on the first-floor requirement. This Ordinance amends the regulation to allow for reconstruction of those properties currently used for residential on the first floor to retain their legal non-conformance in case of accidental destruction by hurricane, fire or other disaster, and would allow the property owner to secure a permit for reconstruct the property as residential.

**Background Information:** This issue was originally scheduled to come before council on December 5<sup>th</sup> following the matter being discussed and action being taken by the Plan Commission the same day. The Plan Commission Voted to recommend this ordinance, but tabled any action on the other two related issues until a later date. However, City Council lacked a quorum and so no public hearing could be conducted nor action taken. Since that time new notices have been mailed out to all property owners and notice of public hearing was properly published in the newspaper for this public hearing.

**Special Considerations:** None

**Financial Impact:** None.

**Board or 3<sup>rd</sup> Party recommendation:** The Planning and Zoning Commission voted on December 5<sup>th</sup> and recommended approval of this ordinance.

**Supporting Documentation:** Map of the downtown zoning district. Ordinance 2022-2682.

**ORDINANCE NO. 2022-2682**

**AN ORDINANCE AMENDING THE CITY OF FREEPORT'S ZONING ORDINANCE BY AMENDING SECTION 155.901(E)(3) EFFECT OF DESTRUCTION TO EXCEPT RESIDENTIAL STRUCTURES PERMITTED IN THE DOWNTOWN DISTRICT FROM THIS PROVISION; CONTAINING A PREAMBLE; CONTAINING A SEVERANCE CLAUSE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AND PROPERLY PUBLISHED FOR HEARING AS REQUIRED BY LAW AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS DESCRIPTIVE CAPTION HAS BEEN PUBLISHED TWICE IN THE BRAZOSPORT FACTS.**

**WHEREAS**, the City of Freeport (the "City") recognizes that certain residential structures within the Downtown District of the City are currently considered nonconforming uses and would not be allowed to be rebuilt in the case of destruction;

**WHEREAS**, the City wants to except these residential structures from the provision that requires structures that are destroyed by any means to an extent of more than fifty percent of its replacement cost at the time of destruction to be reconstructed in conformity with provisions of the Zoning Ordinance.

**WHEREAS**, the City may establish by ordinance, general rules and regulations governing the zoning of land within its corporate limits in order to promote the health, safety, and general welfare of the City and to promote the safe, orderly and healthful development of the City; and

**WHEREAS**, the City Council has determined, based upon the findings stated above, that the regulations established by this Ordinance are necessary for the good government, peace and order the City; and

**WHEREAS**, City Council finds that this Ordinance was adopted at a meeting which was open to the public and preceded by proper notice, as required by Chapter 551 of the Texas Local Government Code (the Open Meetings Act).

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

**Section 1.** The findings and recitations set out in the preamble to this ordinance are found to be true and correct and they are hereby adopted by the City Council and made part hereof for all purposes.

**Section 2.** Section 155.901(E)(3) is hereby amended as follows:

“(3) *Effect of Destruction.* Should such structure, other than residential structures permitted in the downtown in the Downtown District, be destroyed by any means to an extent of more than fifty percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with provisions of this Chapter.”

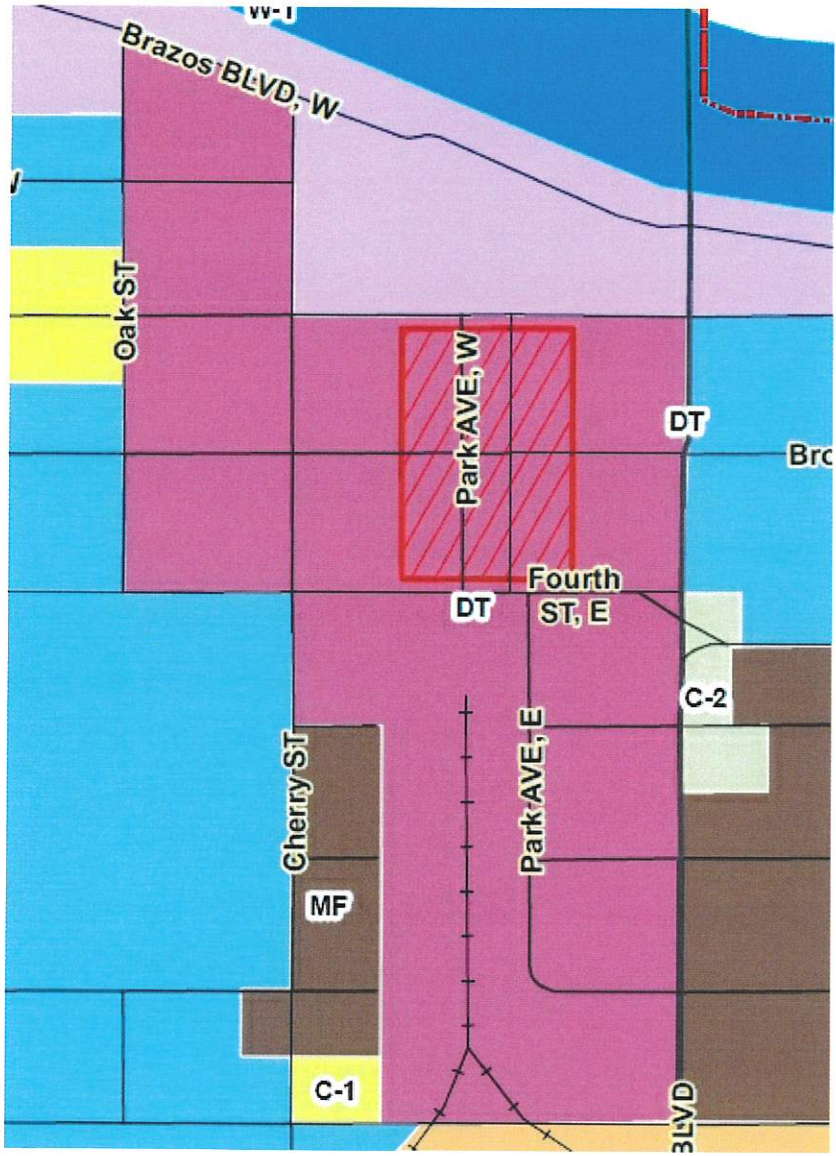
**Section 3.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgement or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**Section 4.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**Section 5.** This Ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts.

**READ, PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.**

\_\_\_\_\_  
Brooks Bass, Mayor





## **Planning Commission Agenda Item # 5**

**Title:** Public Hearing: Discuss and take action regarding request for Replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas

**Date:** January 9, 2023

**From:** Kacey Roman, Director of Building and Code

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**Staff Recommendation:**

Recommendation to Approve Replat.

**Item Summary:**

This property is located in the City of Freeport's ETJ in Churchill, at the corner of County Road 819 and County Road 819A.

**Background Information:**

The purpose of the replat is to divide 14.73 Acre Tract into 5 individual residential lots. The smallest lot will be 2.73 acres, and the other 4 lots will be 3 acres each.

The owner on record at the Brazoria County Appraisal District is Eliza Lara of Clute, Texas.

**Special Considerations:**

n/a

**Financial Impact:**

n/a

**Board or 3<sup>rd</sup> Party recommendation:**

The Planning and Zoning Commission has voted to approve this replat request.

**Supporting Documentation:**

See attached.

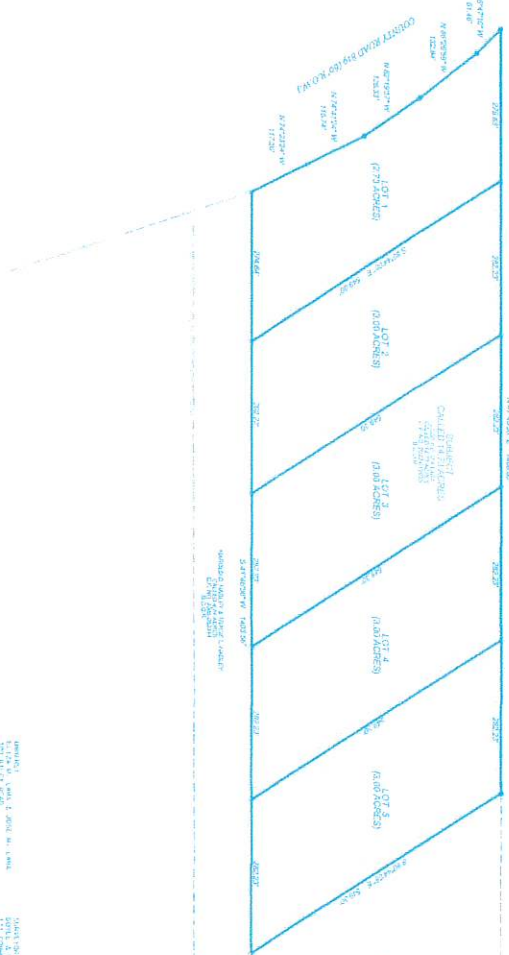
SECTION 1. The undersigned has been duly qualified as a Surveyor of Branson County, Missouri, and has been sworn to the discharge of his duties as such. He is duly qualified and is a resident of the State of Missouri. He is duly qualified and is a resident of the State of Missouri.

CITY OF BRANSON  
BRANSON, MISSOURI

APPROVED BY THE CITY COUNCIL OF THE CITY OF BRANSON,  
BRANSON, MISSOURI, THIS 15th DAY OF MAY, 2011.



Notary Public in and for the State of Missouri  
My Comm. Expires 11/15/12  
My Comm. No. 00000000000000000000



SECTION 2. The undersigned has been duly qualified as a Surveyor of Branson County, Missouri, and has been sworn to the discharge of his duties as such. He is duly qualified and is a resident of the State of Missouri.

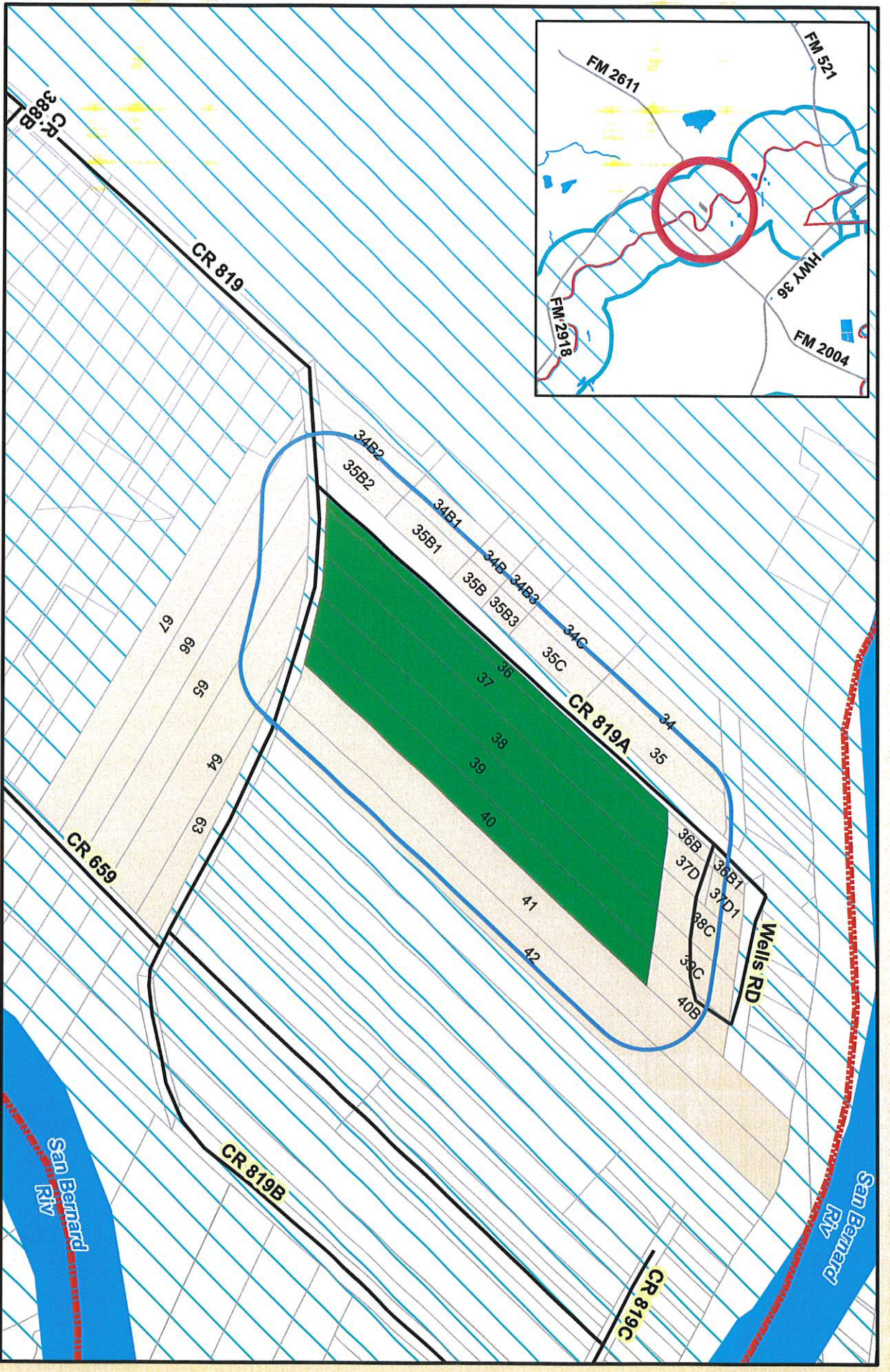
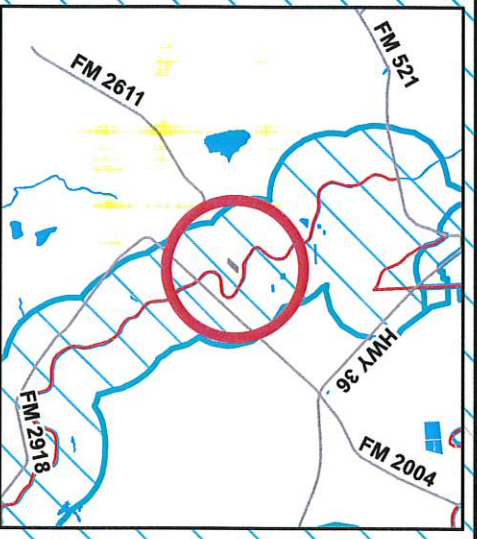
CITY OF BRANSON  
BRANSON, MISSOURI

APPROVED BY THE CITY COUNCIL OF THE CITY OF BRANSON,  
BRANSON, MISSOURI, THIS 15th DAY OF MAY, 2011.

Notary Public in and for the State of Missouri  
My Comm. Expires 11/15/12  
My Comm. No. 00000000000000000000

**GOLF'S GRACE SUBDIVISION**  
CALLED 14.285 ACRE TRACT  
TRACTS 36137, 36138, 36140  
IN THE  
**SAN BERNARD SYNDICATE**  
SUBDIVISION  
BLAZENBA COUNTY ORIGINAL RECORD  
IN THE  
INDEKS & MAPPING DIVISION  
OFFICE OF THE REGISTRAR  
BLAZENBA COUNTY TEXAS  
MAY 2011

**Doyle & Wachsmuth, Inc.**  
10000 W. 113th Street  
Overland Park, MO 66213  
Tel: 913.438.1100  
Fax: 913.438.1101  
www.doyleandwachsmuth.com



**Legend**

- 243138
- 200' Buffer
- Roads
- Water
- Parcels
- Buffered Parcels
- City of Frequent ETU

# Replat Property Location Map

## Property ID: 243138

0 65 130 260 390 520 650  
Feet

Author: Laura Cramer  
 Document Path: S:\GIS Data\243138 200ft  
 w template 121422.mxd



## City Council Agenda Item # 6

**Title:** Public Hearing Discuss and take action regarding a request for replat of Seaside Estates of Follett's Island TX a 10 Lot Subdivision of 25.979 Acres Composed of Tracts 5 through 11 of the unrecorded Subdivision of 70.15 acres conveyed to Nelms Development LLC in County Clerk's File 2021061111 of the Brazoria County Official Records situated in the Stephen F. Austin Peninsula League Abstract 29 City of Freeport Brazoria County, Texas

**Date:** January 9, 2023

**From:** Kacey Roman, Director of Building and Code

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**Staff Recommendation:**

Recommendation to Approve Replat.

**Item Summary:**

This property is located in the City of Freeport's ETJ, approximately one mile east of Surfside on CR 257.

**Background Information:**

The purpose of the replat is to divide the property into 10 lots for construction of single-family homes. The owners on record at the Brazoria County Appraisal District are Nelms Development LLC of Lake Jackson, Texas.

**Special Considerations:**

n/a

**Financial Impact:**

n/a

**Board or 3<sup>rd</sup> Party recommendation:**

The Planning and Zoning Commission has voted to approve this replat request.

**Supporting Documentation:**

See attached.

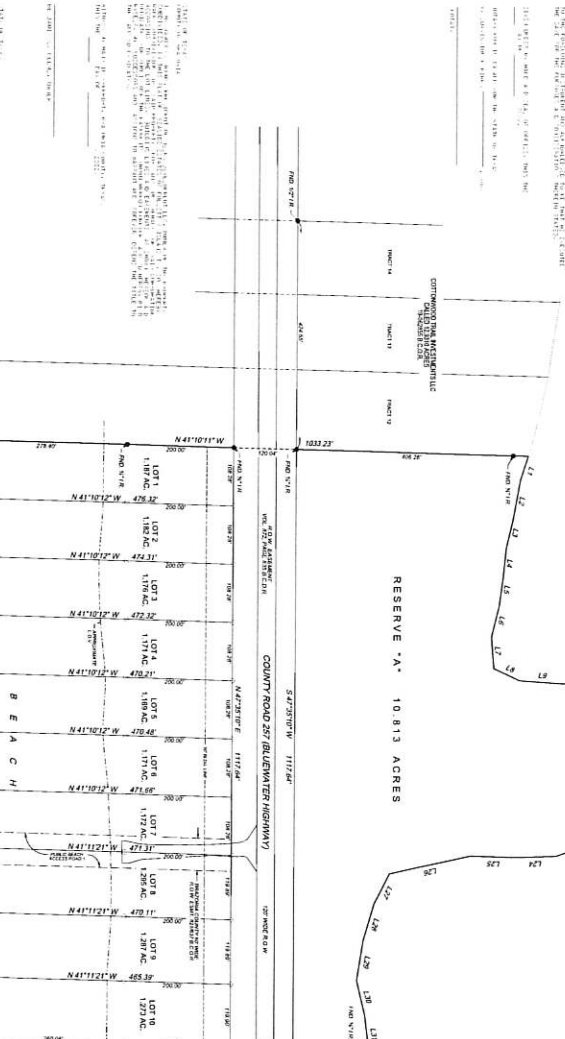




THIS IS TO CERTIFY THAT I, **STEPHEN F. AUSTIN PENINSULA LEAGUE**, a duly qualified and licensed surveyor in the State of Texas, have personally surveyed and plotted the above described land, and that the same is true and correct according to the best of my skill and judgment.

WITNESSETH MY HAND AND SEAL OF OFFICE AT **HOUSTON, TEXAS**, this **19th** day of **December**, 2022.

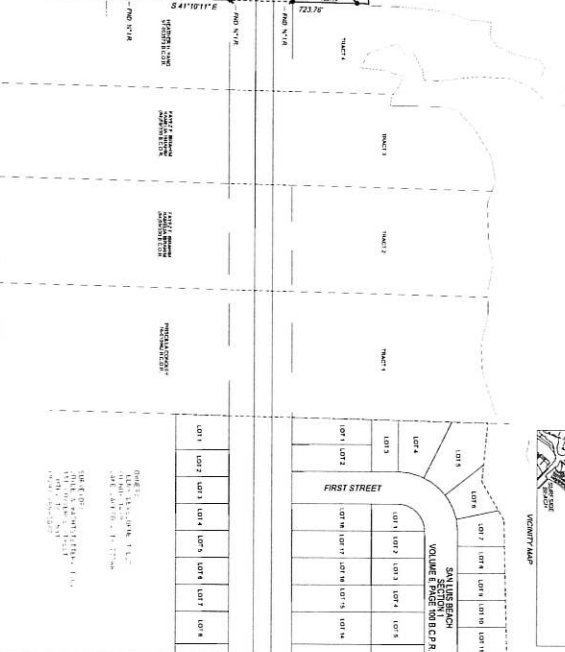
STEPHEN F. AUSTIN PENINSULA LEAGUE  
Surveyor



LINE	BEARING	DISTANCE	CUMULATIVE DISTANCE
1	N 12° 00' 00" E	100.00	100.00
2	N 75° 00' 00" E	100.00	173.21
3	S 75° 00' 00" E	100.00	273.21
4	S 12° 00' 00" E	100.00	373.21
5	S 75° 00' 00" E	100.00	473.21
6	N 75° 00' 00" E	100.00	573.21
7	N 12° 00' 00" E	100.00	673.21
8	N 75° 00' 00" E	100.00	773.21
9	S 75° 00' 00" E	100.00	873.21
10	S 12° 00' 00" E	100.00	973.21
11	S 75° 00' 00" E	100.00	1073.21
12	N 75° 00' 00" E	100.00	1173.21
13	N 12° 00' 00" E	100.00	1273.21
14	N 75° 00' 00" E	100.00	1373.21
15	S 75° 00' 00" E	100.00	1473.21
16	S 12° 00' 00" E	100.00	1573.21
17	S 75° 00' 00" E	100.00	1673.21
18	N 75° 00' 00" E	100.00	1773.21
19	N 12° 00' 00" E	100.00	1873.21
20	N 75° 00' 00" E	100.00	1973.21
21	S 75° 00' 00" E	100.00	2073.21
22	S 12° 00' 00" E	100.00	2173.21
23	S 75° 00' 00" E	100.00	2273.21
24	N 75° 00' 00" E	100.00	2373.21
25	N 12° 00' 00" E	100.00	2473.21
26	N 75° 00' 00" E	100.00	2573.21
27	S 75° 00' 00" E	100.00	2673.21
28	S 12° 00' 00" E	100.00	2773.21
29	S 75° 00' 00" E	100.00	2873.21
30	N 75° 00' 00" E	100.00	2973.21
31	N 12° 00' 00" E	100.00	3073.21
32	N 75° 00' 00" E	100.00	3173.21
33	S 75° 00' 00" E	100.00	3273.21
34	S 12° 00' 00" E	100.00	3373.21
35	S 75° 00' 00" E	100.00	3473.21
36	N 75° 00' 00" E	100.00	3573.21
37	N 12° 00' 00" E	100.00	3673.21
38	N 75° 00' 00" E	100.00	3773.21
39	S 75° 00' 00" E	100.00	3873.21
40	S 12° 00' 00" E	100.00	3973.21
41	S 75° 00' 00" E	100.00	4073.21
42	N 75° 00' 00" E	100.00	4173.21
43	N 12° 00' 00" E	100.00	4273.21
44	N 75° 00' 00" E	100.00	4373.21
45	S 75° 00' 00" E	100.00	4473.21
46	S 12° 00' 00" E	100.00	4573.21
47	S 75° 00' 00" E	100.00	4673.21
48	N 75° 00' 00" E	100.00	4773.21
49	N 12° 00' 00" E	100.00	4873.21
50	N 75° 00' 00" E	100.00	4973.21
51	S 75° 00' 00" E	100.00	5073.21
52	S 12° 00' 00" E	100.00	5173.21
53	S 75° 00' 00" E	100.00	5273.21
54	N 75° 00' 00" E	100.00	5373.21
55	N 12° 00' 00" E	100.00	5473.21
56	N 75° 00' 00" E	100.00	5573.21
57	S 75° 00' 00" E	100.00	5673.21
58	S 12° 00' 00" E	100.00	5773.21
59	S 75° 00' 00" E	100.00	5873.21
60	N 75° 00' 00" E	100.00	5973.21
61	N 12° 00' 00" E	100.00	6073.21
62	N 75° 00' 00" E	100.00	6173.21
63	S 75° 00' 00" E	100.00	6273.21
64	S 12° 00' 00" E	100.00	6373.21
65	S 75° 00' 00" E	100.00	6473.21
66	N 75° 00' 00" E	100.00	6573.21
67	N 12° 00' 00" E	100.00	6673.21
68	N 75° 00' 00" E	100.00	6773.21
69	S 75° 00' 00" E	100.00	6873.21
70	S 12° 00' 00" E	100.00	6973.21
71	S 75° 00' 00" E	100.00	7073.21
72	N 75° 00' 00" E	100.00	7173.21
73	N 12° 00' 00" E	100.00	7273.21
74	N 75° 00' 00" E	100.00	7373.21
75	S 75° 00' 00" E	100.00	7473.21
76	S 12° 00' 00" E	100.00	7573.21
77	S 75° 00' 00" E	100.00	7673.21
78	N 75° 00' 00" E	100.00	7773.21
79	N 12° 00' 00" E	100.00	7873.21
80	N 75° 00' 00" E	100.00	7973.21
81	S 75° 00' 00" E	100.00	8073.21
82	S 12° 00' 00" E	100.00	8173.21
83	S 75° 00' 00" E	100.00	8273.21
84	N 75° 00' 00" E	100.00	8373.21
85	N 12° 00' 00" E	100.00	8473.21
86	N 75° 00' 00" E	100.00	8573.21
87	S 75° 00' 00" E	100.00	8673.21
88	S 12° 00' 00" E	100.00	8773.21
89	S 75° 00' 00" E	100.00	8873.21
90	N 75° 00' 00" E	100.00	8973.21
91	N 12° 00' 00" E	100.00	9073.21
92	N 75° 00' 00" E	100.00	9173.21
93	S 75° 00' 00" E	100.00	9273.21
94	S 12° 00' 00" E	100.00	9373.21
95	S 75° 00' 00" E	100.00	9473.21
96	N 75° 00' 00" E	100.00	9573.21
97	N 12° 00' 00" E	100.00	9673.21
98	N 75° 00' 00" E	100.00	9773.21
99	S 75° 00' 00" E	100.00	9873.21
100	S 12° 00' 00" E	100.00	9973.21
101	S 75° 00' 00" E	100.00	10073.21



NOTE: THIS SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1971, CHAPTER 81, SECTION 01.01, AND THE SURVEYING ACT OF 1979, CHAPTER 81, SECTION 01.01. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1971, CHAPTER 81, SECTION 01.01, AND THE SURVEYING ACT OF 1979, CHAPTER 81, SECTION 01.01. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1971, CHAPTER 81, SECTION 01.01, AND THE SURVEYING ACT OF 1979, CHAPTER 81, SECTION 01.01.

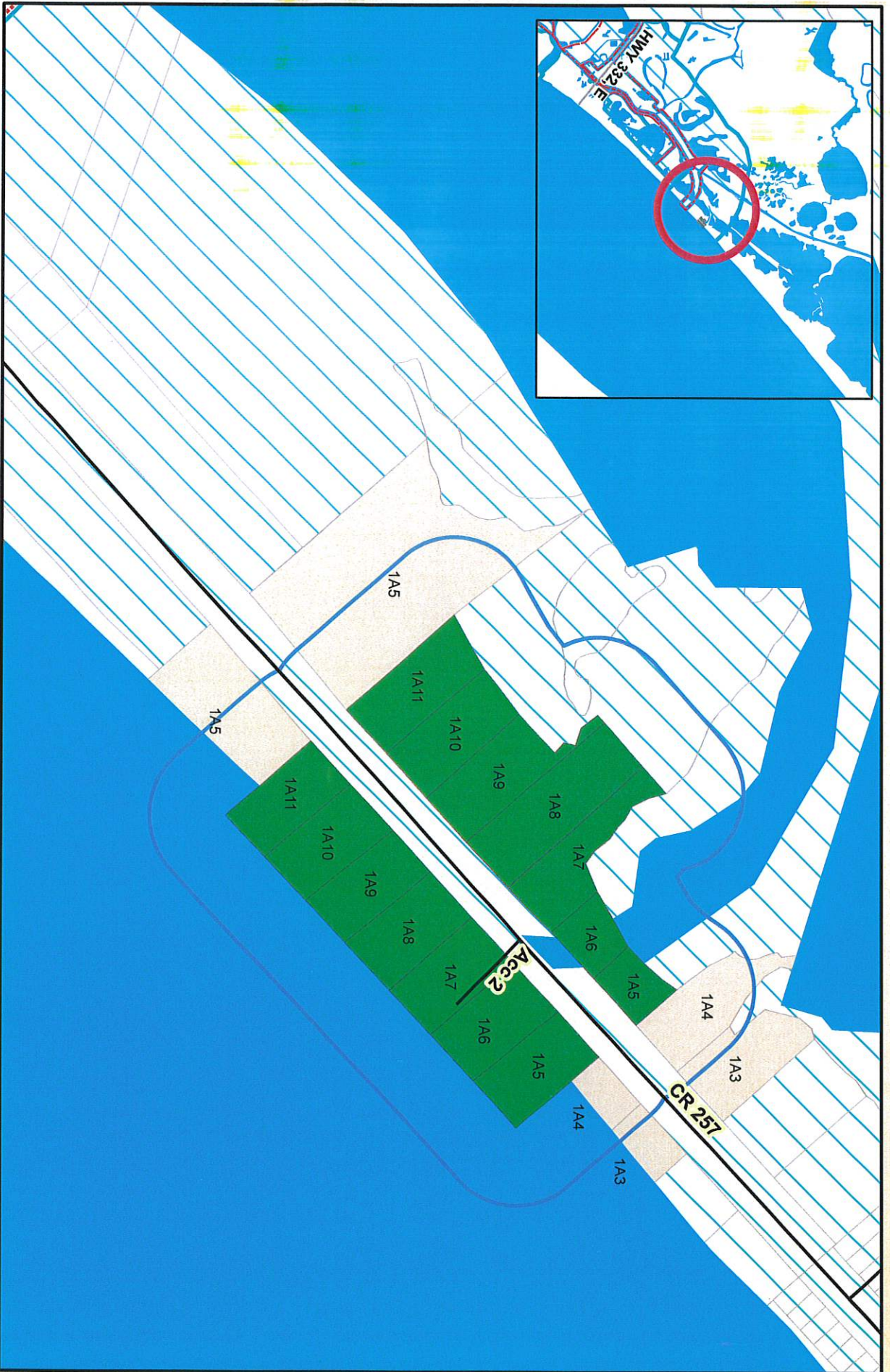


**SEASIDE ESTATES OF FOLLETT'S ISLAND TX**  
A 10 LOT SUBDIVISION  
OF 23.878 ACRES

OWNER: **THE FOLLETT TRUST, INC.**  
10000 FOLLETT DRIVE, SUITE 100  
HOUSTON, TEXAS 77055

DEVELOPER: **NEAMS DEVELOPMENT LLC**  
10000 FOLLETT DRIVE, SUITE 100  
HOUSTON, TEXAS 77055

AGENT: **STEPHEN F. AUSTIN PENINSULA LEAGUE**  
10000 FOLLETT DRIVE, SUITE 100  
HOUSTON, TEXAS 77055



**Legend**

—	Roads
■	151648 151649 151650 151651
■	151649
■	151652 151653 151654
—	200' Buffer
—	Water
□	Parcels
□	Buffered Parcels
□	City of Freeport, ETJ

# Replat Property Location Map

Property ID: 151648 151649 151650  
 151651 151652 151653 151644

Author: Laura Cramer

Document Path: S:\GIS Data\151648  
 151649 151650 151651 151652 151653

0 50 100 200 300 400 500  
 Feet



## City Council Agenda Item #7

**Title:** Consideration and possible action approving the Joint Election Agreement and Contract for Election Services with Brazoria County and the City of Freeport for the Special Election February 25<sup>th</sup>.

**Date:** January 9, 2023

**From:** Betty Wells, City Secretary

---

**Staff Recommendation:**

Staff recommends approving the Joint Election Agreement and Contract for Election Services with Brazoria County.

**Item Summary:**

With the resignation of Councilman for Ward D the City will hold a Special Election on February 25<sup>th</sup>. This agreement allows for Brazoria County to manage our election for the race in the upcoming special election for Ward D, including generating electronic ballots and absentee ballots, operating polling places. The Freeport Library will continue as the location for early and election-day voting.

**Background Information:**

The City of Freeport traditionally partnered with Brazoria County for elections. and this is a re-adoption of previous agreements, changing the dates and races.

**Special Considerations**

None

**Financial Impact:**

The rate sheet for the election is attached. The estimate cost of the election is \$15,000, and an additional \$15,000 if a run-off is necessary.

**Board or 3<sup>rd</sup> Party recommendation:**

None

**Supporting Documentation:**

Contract  
Rate sheet

## CONTRACT FOR ELECTION SERVICES

THIS CONTRACT (this "Agreement") is made effective as of the Effective Date (as defined below), by and between the CITY OF FREEPORT, TEXAS, acting by and through its governing body, hereinafter referred to as "Political Subdivision," and County Clerk of Brazoria County, Texas, hereinafter referred to as "County," and by authority of Section 31.092(a), Texas Election Code, and Chapter 791, Texas Local Government Code, for the conduct and supervision of the Political Subdivision's election to be held on FEBRUARY 25, 2023. Political Subdivision and County may be referred to individually as a "Party" and collectively as "the Parties."

This contract is made by and between the CITY OF FREEPORT, TEXAS, acting by and through its governing body, hereinafter referred to as "Political Subdivision," and the County Election Officer of Brazoria County, defined by statute as the County Clerk through the authority set forth in Texas Election Code §§31.091 and 31.092. The purpose of this contract is for the performance of election services as authorized by statute. This contract shall serve as the general contract for each election for which the Political Subdivision requests the assistance of the County Clerk. Provisions specific to each particular election will be included as an attachment to the original contract. Political Subdivision and County Clerk may be referred to individually as "Party" or collectively as "Parties."

### RECITALS

The County Clerk has care, custody, and control over the electronic voting system, the Hart InterCivic Verity Voting System (Version 2.5.1461), which has been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122, as amended, and is compliant with the accessibility requirements set forth by Texas Election Code Section 61.012. Political Subdivision desires to use the electronic voting system and to compensate the County Clerk for such use and to share in certain other expenses connected with joint elections in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties, IT IS AGREED as follows:

### I. ADMINISTRATION

The Parties agree to hold a "Special Local Election" in accordance with Chapter 271 of the Texas Election Code and this Agreement. The County Clerk shall coordinate, supervise, and handle all aspects of administering the Local Election as provided in this Agreement. Political Subdivision agrees to pay County Clerk for equipment, supplies, services, and administrative costs as provided in this Agreement. The County Clerk shall serve as the administrator for the Local Election; however, the Political Subdivision shall remain responsible for the decisions and actions of its officers necessary for the lawful conduct of its election. The County Clerk shall provide advisory services in connection with decisions to be made and actions to be taken by the officers of the Political Subdivision.

It is understood that other political subdivisions may wish to participate in the use of the electronic voting system and polling places, and it is agreed that the County Clerk may enter into

other joint election agreements and contracts for election services for those purposes on terms and conditions set forth in the Election Code. Political Subdivision agrees that County Clerk may enter into joint election agreements with other political subdivisions that may have territory located partially or wholly within the boundaries of Political Subdivision, and, in such case, all parties sharing common territory shall share a joint ballot on the electronic voting system at the applicable polling places. In such cases, total costs shall be divided among the participants.

At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap.

## II. LEGAL DOCUMENTS

Political Subdivision shall be responsible for the preparation, adoption, and publication of all required election orders, resolutions, notices, and any other pertinent documents required by the Texas Election Code or Political Subdivision's governing body, charter, or ordinances. With reference to publications, the County Clerk will publish the "Notice of Test of Automatic Tabulating Equipment" and the "Notice of Election." If a Political Subdivision is holding any type of Special Election, the Political Subdivision may have to publish their own "Notice of Election" in order to meet additional requirements. Please advise the County Clerk's Elections Office if the Political Subdivision must publish a separate notice so the Political Subdivision's notice is not included in the Notice published by the County Clerk.

Preparation of the necessary materials for notices and the official ballot shall be the responsibility of each participating authority, including translation to languages other than English. Each participating authority shall provide a copy of their respective election orders and notices to the County Clerk's Election Department.

## III. STATUTORY COMPLIANCE

Political subdivisions shall follow all applicable State and Federal laws related to elections, including, but not limited to, Section 52.072 of the Election Code, which states in part, "A proposition shall be printed on the ballot in the form of a single statement."

**Failure to do so may prohibit the political subdivision's participation in a Joint Election.**

## IV. VOTING LOCATIONS

The County Clerk's Election Office shall select and arrange for the use of and payment for all election day voting locations. Voting locations will be, whenever possible, the usual voting location for each election precinct in elections conducted by the county. The proposed voting locations will be provided once the final candidate filing deadline has been met and will be listed as Attachment "A". In the event a voting location is not available, the Elections Department will arrange for use of an alternate location with the approval of the Political Subdivision. The Elections Department shall notify the Political Subdivision of any changes from the locations listed as Attachment "A".

If polling places for the joint election in Attachment "A" are different from the polling place(s) used by Political Subdivision in its most recent election, Political Subdivision agrees to post a notice no later than the date of the election described in Attachment "A", at the entrance to any previous polling places in the jurisdiction, stating that the polling location has changed, and stating the political subdivision's polling place name(s) and address(s) in effect for the election described in Attachment "A". Any changes in voting location from those that were used in the most recent COUNTYWIDE JOINT election will be posted by the County Clerk's Election Office.

#### V. ELECTION JUDGES, CLERKS, AND OTHER ELECTION PERSONNEL

The Brazoria County Commissioners Court shall be responsible for the appointment of the presiding judge and alternate judge for each polling location in accordance with Chapter 32 of the Texas Election Code. In the event an emergency appointment is necessary, appointment shall be made in accordance with Election Code §32.007, which authorizes the presiding officer of the Brazoria County Commissioners Court to make an emergency appointment. Should that officer not be available, the County Clerk's office shall make emergency appointments of election officials. Upon request by the County Clerk, Political Subdivision agrees to assist in recruiting polling place officials who are bilingual (fluent in both English and Spanish).

The County's Elections Department shall notify all election judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to ensure that all election judges appointed for the Joint Election are eligible to serve.

The County Clerk shall arrange for the training and compensation of all election judges and clerks. The Elections Department shall arrange for the date, time, and place for the presiding election judge to pick up their election supplies. Each presiding election judge will be sent a letter from the Elections Department notifying him of his appointment, the time and location of training and distribution of election supplies, and the number of election clerks that the presiding judge may appoint.

Each election judge will receive compensation at an hourly rate of \$14.00. Each election clerk will receive compensation at an hourly rate of \$12.00. The election judge will receive an additional sum of \$25.00 for picking up the election supplies prior to Election Day and for returning the supplies and equipment to the central counting station after the polls close. All judges and clerks who attend training will be compensated at an hourly rate of \$8.00 as compensation for same.

It is agreed by all Parties that at all times and for all purposes hereunder, all election judges, clerks, and all other personnel involved in this election are temporary part-time employees subject only to those benefits available to such employees.

## VI. PREPARATION OF SUPPLIES AND VOTING EQUIPMENT

The County Clerk Elections Department shall arrange for all election supplies and voting equipment including, but not limited to, official ballots, sample ballots, voter registration lists, and all forms, signs and other materials used by the election judges at the voting locations. At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap. The County Clerk Elections Department shall provide the necessary voter registration information, instructions, and other information needed to enable the election judges in the voting locations that have more than one ballot style to conduct a proper election. If special maps are needed for a particular Political Subdivision, the County Clerk Election Department will order the maps and pass that charge on to that particular Political Subdivision.

Political Subdivision shall furnish the County Clerk a list of candidates and/or propositions showing the order and the exact manner in which the candidate names and/or proposition(s) are to appear on the official ballot (including titles and text in each language in which the authority's ballot is to be printed). THE POLITICAL SUBDIVISION SHALL ALSO PROVIDE A COPY OF EACH CANDIDATE'S APPLICATION TO THE COUNTY CLERK ELECTIONS OFFICE. This list shall be delivered to the County Clerk Elections Department as soon as possible after ballot positions have been determined by each of the participating authorities. Each participating authority shall be responsible for proofreading and approving the ballot insofar as it pertains to that authority's candidates and/or propositions. If any error or changes are discovered after the Logic and Accuracy test has been conducted and ballots prepared then the Political Subdivision will be responsible for all cost.

## VII. EARLY VOTING

The Parties agree to conduct joint early voting and to appoint the County Clerk as the Early Voting Clerk in accordance with Sections 31.097 and 271.006 of the Texas Election Code. Political Subdivision agrees to appoint the County Clerk's permanent county employees as deputy early voting clerks. The Parties further agree that each Early Voting Location will have an "Officer in Charge" who will receive compensation at an hourly rate of \$14.00. The clerks at each location will receive compensation at an hourly rate of \$12.00. Early Voting by personal appearance will be held at the locations, dates, and times listed in Attachment "B" of this document. Any qualified voter of the Joint Election may vote early by personal appearance at any one of the joint early voting locations.

As Early Voting Clerk, the County Clerk shall receive applications for early voting ballots to be voted by mail in accordance with Chapter 86 of the Texas Election Code. Any requests for early voting ballots to be voted by mail received by the Political Subdivision shall be forwarded immediately by fax or courier to the Elections Department for processing.

The County Clerk Elections Department shall, upon request, provide the Political Subdivision a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

## VIII. EARLY VOTING BALLOT BOARD

The County Clerk shall appoint an Early Voting Ballot Board (EVBB) to process early voting results from the Joint Election. The Presiding Judge, with the assistance of the County Clerk Elections Department, shall appoint two or more additional members to constitute the EVBB. The County Clerk Elections Department shall determine the number of EVBB members required to efficiently process the early voting ballots.

## IX. CENTRAL COUNTING STATION AND ELECTION RETURNS

The County shall be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.

The participating authorities hereby, in accordance with Section 127.002, 127.003, and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Counting Station Manager:	Lisa Mujica
Alternate Counting Station Manager:	Brandy Pena
Tabulation Supervisor:	Susan Cunningham
Alternate Tabulation Supervisor:	Johnathan Escamilla
Presiding Judge:	Betty Wells
Alternate Presiding Judge:	to be determined

The County Clerk Elections Department will prepare the unofficial canvass reports after all precincts have been counted, and will deliver a copy of the unofficial canvass to the Political Subdivision as soon as possible after all returns have been tabulated. All participating authorities shall be responsible for the official canvass of their respective elections.

The County Clerk Elections Department shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State's Office.

The County Clerk Elections Department shall submit all Cities' precinct by precinct returns to the Texas Secretary of State's Office electronically.

The County Clerk Elections Department shall post all election night results to County website on election night. <http://www.Brazoriacountyclerktx.gov>.



## X. ELECTION EXPENSES AND ALLOCATION OF COSTS

The Parties agrees to pay the full costs of administering the Special Local Election. Allocation of costs, unless specifically stated otherwise, is mutually agreed. ~~to be shared. The County participates in "Vote Centers," therefor all political subdivisions can vote at any location.~~

It is agreed that the normal rental rate charged for the County's voting equipment used on election day shall be calculated ~~per polling locations and among the participants utilizing each polling location.~~ (See "Exhibit 1" for rental rates.) Total cost will be calculated, and then multiplied ~~by the Political Subdivisions percentage number of registered voters or with the minimum of \$1500.00, for those with lesser amount,~~ additional cost associated will be itemized and billed.

Costs for Early Voting by Personal Appearance will also be charge with the same formula as Election Day. ~~Those political subdivisions with the percentage of registered voters less than amount equal to \$1500.00 charged will be a minimum amount of \$1500.00.~~

Political Subdivision contracting for a runoff shall be responsible for all associated costs.

## XI. WITHDRAWAL FROM CONTRACT DUE TO CANCELLATION OF ELECTION

Political Subdivision may withdraw from this agreement and the Joint Election should it cancel its election in accordance with Sections 2.051 - 2.053 of the Texas Election Code, or should it be later ruled that the election is not needed. Political Subdivision is fully liable for any expenses incurred by County Clerk on behalf of the Political Subdivision. Any monies deposited with the county by the withdrawing authority shall be refunded, minus the aforementioned expenses.

## XII. RECORDS OF THE ELECTION

The County Clerk is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.

Access to the election records shall be available to each participating authority, as well as to the public, in accordance with applicable provisions of the Texas Election Code and the Texas Public Information Act. The election records shall be stored at the offices of the County Clerk or at an alternate facility used for storage of county records. The County Clerk Elections Department shall ensure that the records are maintained in an orderly manner so that the records are clearly identifiable and retrievable.

Records of the election shall be retained and disposed of in accordance with the provisions of Section 66.058 of the Texas Election Code. If records of the election are involved in any pending election contest, investigation, litigation, or open records request, the County Clerk shall maintain the records until final resolution or until final judgment, whichever is applicable. It is the responsibility of each participating authority to bring to the attention of the County Clerk any notice of pending election contest, investigation, litigation or open records request which may be filed with the participating authority.

### XIII. RECOUNTS

A recount may be obtained as provided by Title 13 of the Texas Election Code. Political Subdivision agrees that any recount shall take place at the offices of the County Clerk and that the County Clerk shall serve as Recount Supervisor and the Political Subdivision's official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator.

The County Clerk Elections Department agrees to provide advisory services to the Political Subdivision as necessary to conduct a proper recount and cost of the recount depends on the size of the election and number of precincts to be recounted.

### XIV. MISCELLANEOUS PROVISIONS

1. It is understood that to the extent space is available, that other districts and political subdivisions may wish to participate in the use of the election equipment and voting places; it is agreed that the County Clerk may contract with such other districts or political subdivisions for such purposes, and that in such event, there may be an adjustment of the pro-rata share to be paid to the County by the participating authorities.
2. The County Clerk shall file copies of this document with the County Treasurer and the County Auditor in accordance with Section 31.099 of the Texas Election Code.
3. In the event that legal action is filed contesting the Political Subdivision's election under Title 14 of the Texas Election Code, Political Subdivision shall choose and provide, at its own expense, legal counsel for the County, the County Clerk, and additional election personnel as necessary.
4. Nothing in this contract prevents any party from taking appropriate legal action against any other party and/or other election personnel for a breach of this contract or a violation of the Texas Election Code; however, any action taken is subject to any immunity provided by statute or common law to governmental entities. For purposes of this contract, the County Clerk's office is acting as a governmental entity covered by any immunity available to Brazoria County.
5. The parties agree that under the Constitution and laws of the State of Texas, neither Brazoria County nor Political Subdivision can enter into an agreement whereby either party agrees to indemnify or hold harmless another party; therefore, all references of any kind, if any, to indemnifying or holding or saving harmless for any reason are hereby deleted.
6. This agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazoria County, Texas.
7. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement

shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

8. All parties shall comply with all applicable laws, ordinances, and codes of the State of Texas, all local governments, and any other entities with local jurisdiction.
9. The waiver by any party of a breach of any provision of this agreement shall not operate as or be construed as a waiver of any subsequent breach.
10. Any amendments of this agreement shall be of no effect unless in writing and signed by all parties hereto.
11. **Authorization of Agreement**. This Agreement has been approved and authorized by the governing body of the Political Subdivision.
12. **Purpose, Terms, Rights, and Duties of the Parties**. The purpose, terms, rights, and duties of the Parties shall be as set forth in this Agreement.
13. **Payments from Current Revenues**. Each Party paying for the performance of governmental functions or services must make those payments from current revenues available to that paying Party.
14. **Fair Compensation**. The Parties acknowledge and agree that each of the payments contemplated by this Agreement fairly compensate the performing Party.
15. **Termination**. At any time and for any reason, either Party may terminate this Agreement by providing thirty (30) days' written notice of termination to the other Party.
16. **Funding**. The Parties understand and acknowledge that the funding of this Agreement is contained in each Party's annual budget and is subject to the approval of each Party in each fiscal year. The Parties further agree that should the governing body of any Party fail to approve a budget that includes sufficient funds for the continuation of this Agreement, or should the governing body of any Party fail to certify funds for any reason, then and upon the occurrence of such event, this Agreement shall automatically terminate as to that Party and that Party shall then have no further obligation to the other Party. When the funds budgeted or certified during any fiscal year by a Party to discharge its obligations under this Agreement are expended, the other Party's ***sole and exclusive remedy*** shall be to terminate this Agreement.
17. **No Joint Enterprise**. The Agreement is not intended to, and shall not be construed to, create any joint enterprise between or among the Parties.
18. **Public Information**. This Agreement is public information. To the extent, if any, that any provision of this Agreement is in conflict with Texas Government Code Chapter 552, et seq., as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.

19. **No Third-Party Beneficiaries.** This Agreement is entered solely by and between, and may be enforced only by and among the Parties. Except as set forth herein, this Agreement shall not be deemed to create any rights in, or obligations to, any third parties.
20. **No Personal Liability.** Nothing in this Agreement shall be construed as creating any personal liability on the part of any employee, officer, or agent of any Party to this Agreement.
21. Nothing in this Agreement requires that either the Political Subdivision or County incur debt, assess or collect funds, or create a sinking fund.
22. **Sovereign Immunity Acknowledged and Retained.** **THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY ANY PARTY OF ANY IMMUNITY FROM SUIT OR LIABILITY THAT A PARTY MAY HAVE BY OPERATION OF LAW. THE CITY AND THE COUNTY RETAIN ALL GOVERNMENTAL IMMUNITIES.**

#### XV. COST ESTIMATES AND DEPOSIT OF FUNDS

It is estimated that the Political Subdivision's obligation under the terms of this agreement shall be DETERMINED AFTER THE ELECTION. Political Subdivision agrees to pay to County a deposit of \$2,500.00. This deposit shall be paid to County within 10 business days after the final candidate filing deadline. The final candidate filing deadline is December 27, 2022. Therefore, Deposit is due by January 9, 2023. The exact amount of the Political Subdivision's obligation under the terms of this Agreement shall be calculated after the February 25, 2023, election; and if the amount of the Political Subdivision's obligation exceeds the amount deposited, the Political Subdivision shall pay to County the balance **due within thirty (30) days after receipt of the final invoice from the County's Election Department**. However, if the amount of the Political Subdivision's obligation is less than the amount deposited, County shall refund to the Political Subdivision the excess amount paid within thirty (30) days after final costs are calculated.

IN TESTIMONY HEREOF, this agreement, its multiple originals all of equal force, has been executed on behalf of the parties.

(1) On the \_\_\_\_\_ day of \_\_\_\_\_, 2023 been executed on behalf of the County Clerk by the County Clerk pursuant to the Texas Election Code;

(2) On the \_\_\_\_\_ day of \_\_\_\_\_, 2023 been executed on behalf of the Political Subdivision by its Mayor or authorized representative, pursuant to an action of the Political Subdivision.

BRAZORIA COUNTY, COUNTY CLERK by

\_\_\_\_\_  
Joyce Hudman, County Clerk

ATTEST:

CITY OF FREEPORT, TEXAS

\_\_\_\_\_ By \_\_\_\_\_  
Presiding Officer or Authorized Representative  
CITY OF FREEPORT

# RATE SHEETS FOR BRAZORIA COUNTY ELECTIONS:

## MAY (COUNTYWIDE JOINT)

### EQUIPMENT RENTAL

CONTROLLER .....	\$350.00 each
SCANNER UNIT.....	\$425.00 each
ACCESS WITH TOUCH UNIT (DAU).....	\$375.00 each
TOUCH UNITS .....	\$325.00 each
POLLPADS .....	\$50.00 each
MI-FI/ HOTSPOT .....	\$50.00 each

This is not a daily charge. This price is for the entire election even if it is for 12 days of voting.

### OTHER CHARGES

Programming .....	\$300.00
Tabulating.....	\$150.00
Equipment Delivery and Pickup	
Truck Rental (per delivery location) .....	\$25.00
Labor (Per delivery location) .....	\$75.00
Supply tubs EV-ED (see attached list for contents) .....	\$75.00
Mail Ballots will be billed per entity kits including postage ....Domestic...\$1.74...Overseas...\$2.36	
Publications charged based on % of registered voters.....	

<b>Workers-Judges</b>	\$14.00 per hour -Overtime rate \$21.00 per hour
<b>Clerks</b>	\$12.00 per hour- Overtime rate \$18.00 per hour

### ELECTION DAY

For Election Day, we will calculate the cost for each location (see Exhibit 'A2') the total cost for Election Day will then be calculated per percentage of registered voters of each political subdivision. All political subdivisions in Brazoria County less than 1000 registered voters, charges will be the minimum of \$1500.00 for Election Day.

### EARLY VOTING

For Early Voting we also calculate worksheets for each of the 10-11 early voting locations. Once we have the total cost for all locations, we do a spreadsheet that divides the cost between all political subdivisions based on the percentage of registered voters in each. Since we have large and small cities in our county, the minimum charge for early voting will be \$1500.00.

### OVERTIME

We keep a record of our overtime for the May Elections and the staff gets paid overtime. Since we charge for programming and tabulations that money goes towards the employee's overtime. If we have more overtime than covered by a calculated programming and tabulation fees, we will add in the additional overtime when sending the final bills.

## **RATE SHEETS FOR BRAZORIA COUNTY ELECTIONS:**

### **NOVEMBER (COUNTYWIDE JOINT)**

For November Elections, the Election Day and Early voting charges are just like the countywide joint in May. If the only political subdivisions at a location are Brazoria County and one entity, total cost calculated will be per percentage of registered voters for the entity.

Runoffs Elections will be the responsibility of whichever entity will be conducting a runoff election.

Any errors or changes related to a Political Subdivision oversight and if it results in reprogramming the entirety election, will be responsible for all associated cost.



## City Council Agenda Item # 8

**Title:** Consideration and possible action regarding the recommendations of the Freeport Charter Review Committee to place items for consideration on the upcoming ballot for the Freeport Elections in May of 2023.

**Date:** January 9, 2023

**From:** Tim Kelty, City Manager

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**Staff Recommendation:** Staff recommends council consider report from and items recommended by the Charter Review Committee for placement on the upcoming ballot in the May election and choose those items you feel are most important for doing so.

**Item Summary:** The Charter review committee has recommended for Council consideration the following 16 questions to be placed upon the upcoming ballot:

1. Shall the Charter be amended to authorize City Council to correct spelling, grammar, and punctuation errors in the Charter?
2. Shall the Charter be amended to provide that the filling of a vacancies on City Council be consistent with Article 11, Section 11 of the Texas Constitution?
3. Shall the Charter be amended to authorize City Council to update all references to in the City's Charter to current State law?
4. Shall the Charter be amended to authorize City Council to update all references to City Clerk to now read City Secretary?
5. Shall the Charter be amended to authorize City Council to make all references to persons or positions gender neutral?
6. Shall Section 3.14 of the Charter be amended to accurately reflect the City's annual audit requirements under State law?
7. Shall the Charter be amended to require the Chief of Police to establish a place of residency within 30 miles from the City?
8. Shall the Charter be amended to update the qualifications and duties of the Health Officer to reflect current City practice and the role of a Municipal Health Officer?
9. Proposition #9: Shall the Charter be amended to require the Fire Chief to act as the chief administrative officer of the department of Fire and EMS and to establish a place of residency within 30 miles from the City?



10. Shall the Charter be amended to allow one hundred and eighty (180) days to submit signatures for a petition, which is consistent with State and Federal law?
11. Shall the Charter be amended to remove the use of the word “slum districts” and replace with “substandard structures”?
12. Shall the Charter be amended to update personal interest prohibitions to be consistent with State law?
13. Shall the Charter be amended to update claims for damages against the City to be consistent with current State law?
14. Shall the Charter be amended to remove the obsolete section concerning Interim Municipal Government?
15. Shall the Charter be amended to update the procedure for amending the Charter to be consistent with current State and Federal law?
16. Shall the Charter be amended to remove the obsolete section concerning the initial submission of the Charter to voters for original approval?

City Attorney David Olson has prepared the attached Charter identifying all proposed changes in Redline.

Which ever recommendations are approved will be brought back in the form of an ordinance ordering the calling of the Charter election.

**Background Information:** The Charter Review Committee appointed by the City Council in has met in open meetings over the last 3 months and carefully reviewed section by section the City Charter. They identified 16 potential changes for the Charter many of which were driven the need to be more congruent with state law, some were considered good housekeeping changes, and several were identified as important and timely. There recommendations have been summarized by these 16 questions.

The attached report has been prepared by the City Attorney with either the current language (or an example), the specific proposed change (or an example), The proposed ballot language and the rational for the change recommended. Examples are used when the ballot question addresses corrections throughout the Charter for spelling, grammatical, or legal compliance with state law issues.

**Special Consideration:** In review of these items Council may consider each item individually and act upon them individually. You may consider them as a whole or in part and may also consider other potential changes outside the recommendation of the committee.

Any items selected for inclusion on the ballot shall be submitted to the voters in the manner provided by chapter 9 of the Local Government Code

**Board or 3<sup>rd</sup> Party recommendation:** This is the formal recommendation of the Charter Review Commission as stipulated procedurally under Section 11.13 of the Charter.

**Supporting Documentation:** Charter Review Commission report

**PART I**  
**HOME RULE CHARTER**

Article 1. Form of Government and Boundaries

- 1.01 Form of government
- 1.02 Boundaries
- 1.03 Annexation for all purposes
- 1.04 Contraction of boundaries

Article 2. Power of the City

- 2.01 General
- 2.02 General powers adopted
- 2.03 Eminent domain

Article 3. The Governing Body

- 3.01 Number, selection, and term
- 3.02 Qualifications
- 3.03 Council to be judge of election and qualification
- 3.04 Compensation
- 3.05 Mayor Pro Tem
- 3.06 Vacancies
- 3.07 Powers of the City Council
- 3.08 City Council not to interfere in appointments
- 3.09 Meetings of the City Council
- 3.10 Rules of procedure
- 3.11 Procedure for passing of ordinances
- 3.12 Official bonds for city employees
- 3.13 Investigation by the City Council
- 3.14 Audit and examination of city books and accounts
- 3.15 Publication of financial statement

Article 4. Administrative Services

- 4.01 City Manager
- 4.02 Department of Police
- 4.03 City Secretary
- 4.04 Director of Finance
- 4.04A Multiple Duties
- 4.05 Municipal Court
- 4.06 City Attorney
- 4.07 ~~Department of Health and Sanitation~~ Officer
- 4.08 Fire and E.M.S. Department
- 4.09 Other Departments

Article 5. Nominations and Elections

- 5.01 Elections
- 5.02 Regulations of elections
- 5.03 Filing for office
- 5.04 The official ballot
- 5.05 Election by majority
- 5.06 Laws governing Ceity elections
- 5.07 Conducting and canvassing elections
- 5.08 Oath of office
- 5.09 Cancellation of elections
- 5.10 Limitation on consecutive terms of office

Article 6. Recall of Officers

- 6.01 Scope of recall
- 6.02 Petitions for recall
- 6.03 Form of recall petition
- 6.04 Various papers constituting petition
- 6.05 Presentation of petition to City Council
- 6.06 Public hearing to be held
- 6.07 Election to be called
- 6.08 Ballots in recall election
- 6.09 Result of recall election
- 6.10 Recall, restrictions thereon
- 6.11 Failure of City Council to call an election

Article 7. Legislation by the People, Initiative and Referendum

- 7.01 General power
- 7.02 Initiative
- 7.03 Referendum
- 7.04 Voluntary submission of legislation by the City Council
- 7.05 Form of ballots
- 7.06 Publication of proposed and referred ordinances
- 7.07 Adoption of ordinances
- 7.08 Inconsistent ordinances
- 7.09 Ordinances passed by popular vote, repeal, or amendment
- 7.10 Further regulations by City Council
- 7.11 Franchise ordinances

Article 8. Municipal Planning and Zoning

- 8.01 Platting of property
- 8.02 Development of property

- 8.03 Planning Commission
- 8.04 Zoning Board of Adjustment

Article 9. Municipal Finance

- 9.01 Fiscal year
- 9.02 Preparation and submission of budget
- 9.03 Anticipated revenues compared with other years in budget
- 9.04 Proposed expenditures compared with other years
- 9.05 Budget a public record
- 9.06 Notice of public hearing on budget
- 9.07 Public hearing on budget
- 9.08 Proceedings on budget after public hearing
- 9.09 Vote required for adoption
- 9.10 Date for final adoption
- 9.11 Effective date of budget; certifications; copies made available
- 9.12 Budget establishes appropriations
- 9.13 Budget establishes amount to be raised by property tax
- 9.14 Contingent appropriation
- 9.15 Estimated expenditures shall not exceed estimated resources
- 9.16 Other necessary appropriations
- 9.17 Department of Taxation
- 9.18 Power to tax
- 9.19 Property subject to tax, method of assessment
- 9.20 (Deleted)
- 9.21 (Deleted)
- 9.22 (Deleted)
- 9.23 (Deleted)
- 9.24 Taxes; when due and payable
- 9.25 Tax liens

Article 10. Franchise and Public Utilities

- 10.01 Powers of the City
- 10.02 Franchise power of City Council
- 10.03 Franchise value not to be allowed
- 10.04 Right of regulation
- 10.05 Regulations of rates and services
- 10.06 Grant not to be exclusive
- 10.07 Consent of property owners
- 10.08 Extensions
- 10.09 Other conditions
- 10.10 Accounts of municipally owned utilities
- 10.11 Sales of water, sewer and any other services

Article 11. General Provisions

- 11.01 Publicity of records
- 11.011 Selection of newspapers for publications
- 11.02 Personal interest
- 11.03 Drilling operations
- 11.04 Nepotism
- 11.05 Provisions relating to assignment, execution and garnishment
- 11.06 City not required to give security or executive bond
- 11.07 Special provisions covering damage suits
- 11.08 Separability clause
- 11.09 Effect of this charter on existing law
- ~~11.10 Interim municipal government~~
- 11.101 Applicability of general laws
- 11.112 Amending the charter
- 11.123 Charter review commission
- ~~11.14 Submission of charter to voters~~
- 11.135 Gender neutral provision

Editor's note:

The City's Home Rule Charter was adopted by the voters of the City at a special election held on June 18, 1960, and adopted June 20, 1960.

**PREAMBLE**

We, the citizens of Freeport, Texas, in order to provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the statutes of the State of Texas; do hereby declare the residents of the City of Freeport in Brazoria County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Freeport" with such powers, rights, and duties as are herein provided.

**ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES**

**SECTION 1.01. FORM OF GOVERNMENT.**

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the statutes of this State and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this

Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of this State.

**SECTION 1.02. BOUNDARIES.**

The boundaries of the City of Freeport shall be the same as have heretofore been established and as they existed on the 25th day of April, 1960, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Freeport, Brazoria County, Texas," being Ordinance No. 1022, filed in the City Hall of the City of Freeport, Texas, and as may be amended in the future as a result of legal annexation.

(Ord. No. 2020-2617, § 3(1.02), 11-17-2020)

**SECTION 1.03. ANNEXATION FOR ALL PURPOSES.**

The Council shall have the power by ordinance to fix the boundary limits of the City of Freeport; and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and the inhabitants annexed, any such annexation being in accordance with the provisions of the Municipal Annexation Act codified as Chapter 43 of the Local Government Code. Upon the passage of any ordinance annexing property to the City, the boundary limits of the City shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Freeport, and the property situated therein shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City.

(Res. No. 1065, Prop. I, 4-4-77; Election of 4-3-82; Amendment adopted by electorate 5-2-98)

**SECTION 1.04. CONTRACTION OF BOUNDARIES.**

Whenever there exists within the corporate limits of the City of Freeport any territory not suitable or necessary for City purposes, the City Council may, upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as part of said City; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said City, and from and after the entry of such ordinance said territory shall cease to be a part of said City, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

**ARTICLE 2. POWER OF THE CITY**

**SECTION 2.01. GENERAL.**

The City of Freeport may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas; and shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The City may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside the City limits, subject to the limitation hereinafter set out, and may construct, own, lease, operate, and regulate public utilities, may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by issuance and sale of bonds, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places, may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City of Freeport; and, except as prohibited by the Constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

**SECTION 2.02. GENERAL POWERS ADOPTED.**

The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of Freeport shall have and may exercise all the powers of a home rule municipality enumerated in the Local Government Code. (Amendment adopted by electorate 5-7-94)

**SECTION 2.03. EMINENT DOMAIN.**

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State. The power of



eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

### ARTICLE 3. THE GOVERNING BODY

#### SECTION 3.01. NUMBER, SELECTION, AND TERM.

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

(b) The Mayor shall be elected from the City of Freeport at large for a three (3) year term at an election to be held on the ~~May-general~~ uniform election date beginning in 2021, unless such date is changed by Sstate law.

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

(d) The members of the City Council shall serve a three (3) year term each, with an election being held for council members from Wards A and C on the general uniform election date beginning in 2020 and from Wards B and D on the general uniform election date beginning in 2021, unless such date is changed by Sstate law.

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

(f) All references within this Charter to ~~specifie the general uniform Election-election Dates date are is~~ henceforth held to be synonymous with the May Uniform Election Dates as ~~prescribed~~ by current State ~~L~~law and as may be revised by acts of the State Legislature in the future.  
(Ord. No. 2020-2617, § 3(3.01), 11-17-2020)

**SECTION 3.02. QUALIFICATIONS.**

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

(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12; Amendment adopted by electorate 5-16-16; Amendment adopted by electorate 5-15-18)

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

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

**SECTION 3.04. COMPENSATION.**

The Mayor shall receive a monthly compensation of \$200.00, and the other members of the City Council shall receive a monthly compensation of \$100.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$25.00, payable monthly, for each posted meeting of the City Council attended by them. Any expenses incident to holding office incurred by any member of the City Council shall also be reimbursed upon presentation of receipt or other proof of payment.

(Res. No. 916, Prop. 2, 4-9-73; Res. No. 1129, Prop. 1, 4-7-79; Amendment adopted by electorate 5-10-08)

**SECTION 3.05. MAYOR PRO TEM.**

At the meeting of the City Council at which the returns of the annual election are canvassed each year, the members of the City Council shall select, on a rotating basis among the Wards, a member

of the City Council who has been on City Council for at least two (2) years to serve as Mayor Pro Tem until the meeting of the City Council at which the returns of the annual election for the next succeeding year have been canvassed. The Mayor Pro Tem shall perform all of the duties of the Mayor in the absence or disability of the Mayor and shall assume the office of Mayor for the remainder of the unexpired term in the event the office of the Mayor becomes vacant. If both the Mayor and the Mayor Pro Tem are absent from any meeting of the City Council, the members present shall elect from among themselves a Temporary Mayor Pro Tem to preside at such meeting.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-2-98; Amendment adopted by electorate 5-10-14)

### **SECTION 3.06. VACANCIES.**

When a vacancy occurs in the City Council for a Council position that has an unexpired term of twelve (12) months or less, the remaining members thereof, ~~must, shall within ten (10) days,~~ appoint a qualified person to fill the unexpired term of such vacancy; provided, however, ~~the City Council shall not appoint more than one council member in any twelve month period, and in the event of the occurrence of a vacancy in the City Council within a twelve month period in which a vacancy in the City Council has been filled by the said City Council~~ if the vacancy occurs with more than twelve (12) months remaining on the unexpired term of such position, or in the event that more than one vacancy shall occur at the same time, ~~;~~ then in such event a special election shall be held within ~~forty one hundred and twenty (40) 20~~ days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for and on behalf of said City, and to appoint qualified persons as election officials.

### **SECTION 3.07. POWERS OF THE CITY COUNCIL.**

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

- (a) Power to remove from office in City Government, any officer or member of any board or commission but shall not have the authority to remove any employee from the employment of the City Government, except the City Manager;
- (b) Power to establish, consolidate, or abolish administrative department, but shall not distribute the work of divisions;

- (c) Adopt the budget of the City;
- (d) Authorize the issuance of bonds by a bond ordinance in accordance with the general laws of the State of Texas;
- (e) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;
- (g) Adopt and modify the zoning plan and the building code of the City;
- (h) Adopt and modify the official maps of the City;
- (i) Adopt, modify and carry out plans proposed by the Planning Commission;
- (j) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (k) Grant franchises, regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, on the public streets and alleys of the City;
- (l) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;
- (m) Fix the salaries and compensation of the employees of the City and of all officers of the City other than that of the Mayor and other members of the City Council;
- (n) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections;
- (o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges;

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided ~~in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925~~ by Chapter 311 of the Transportation Code, as now or hereafter amended;

(q) Exercise those powers related to harbor and port facilities enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a, Revised Civil Statutes of Texas, 1925, as the same exist or may be hereafter amended ~~provided by Chapter 54 of the Transportation Code, as now or hereafter amended~~;

(r) Provide for and establish hospitalization insurance for employees;

(s) Participate in National or State Social Security programs;

(t) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Freeport;

(u) And such other and further powers as have been or may from time-to-time hereafter be delegated to Home Rule cities by the Legislature of the State of Texas, including the powers incident to the exercise thereof.

(Res. No. 1129, Props 2, 3, 4-7-79; Amendment adopted by electorate 5-12-12) (Ord. No. 2020-2617, § 3(3.07), 11-17-2020)

### **SECTION 3.08. CITY COUNCIL NOT TO INTERFERE IN APPOINTMENT.**

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of ~~his~~ the City Manager's subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

### **SECTION 3.09. MEETINGS OF THE CITY COUNCIL.**

The City eCouncil shall have two (2) regular meetings per month, the date, place and beginning time of which shall be established by ordinance. The eCity Secretary, under the direction of the Mayor or Ceity manager, shall be responsible for complying with the notice provisions of the Open Meetings Act for all regular meetings. A regular meeting may be cancelled or the location thereof changed by the mMayor. Provided, however, no regular meeting may be held outside the corporate limits of the -Ceity. An emergency meeting or special meeting may be called by the mMayor or any two (2) of the other members of the eCity eCouncil. An emergency meeting is one held in case of an emergency or urgent public necessity where only two (2) hours' notice thereof

is required by the Open Meetings Act. A special meeting is any meeting other than a regular meeting or an emergency meeting. The eCity sSecretary, under the direction of the person or persons calling a special or emergency meeting, shall be responsible for complying with the notice provisions of the Open Meetings Act. The date, place and beginning time of a special or emergency meeting shall be determined by the person or persons calling such meeting and shall be the time specified in such notice. A special or emergency meeting may be held outside the corporate limits of the eCity. (Amendment adopted by electorate 5-7-94)

### **SECTION 3.10. RULES OF PROCEDURE.**

The City Council shall determine its own rules of procedure and may compel the attendance of its members. A majority of the qualified members of the City Council shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings, regular or special, shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City; provided, however, in lieu of reading the minutes of each Council meeting for approval, the City Secretary may, with the consent of the City Council, furnish each member of the City Council with exact copies of the minutes of previous meetings at least three days prior to the meeting at which such minutes are to be subject to approval. Such minutes shall then be subject to approval, rejection, deletion or addition by the members of the City Council without the necessity of reading the full text of the minutes of the meetings at such meeting at which such minutes are subject to approval. No member of the City Council present at a meeting shall be excused from voting, and each member of the City Council present at the meeting must announce ~~his-the member's~~ vote on question, ordinance, or resolution placed before the City Council; provided, however, a council member shall be excused from voting whenever the subject matter under consideration involves ~~his-the member's~~ own official conduct, or where his personal financial interests are involved, and on these particular matters, he shall not vote but shall give his reasons for not voting, which said reasons shall be spread upon the minutes of the City Council. The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded and permanently maintained, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary. If at any meeting of the eCity eCouncil less than a quorum is present, a majority of the members of the eCity eCouncil who are present may postpone the convening of such meeting for a period of time not to exceed one (1) hour in order to obtain a quorum.

(Amendment adopted by electorate 5-2-98) (Ord. No. 2020-2617, § 3(3.10), 11-17-2020)

### **SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.**

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage; subject to the provisions of Article 7 of this Charter. The ~~elerk~~-City Secretary shall give

notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. ~~He~~The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the ~~m~~Mayor and ~~city-City clerk~~Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

### **SECTION 3.12. OFFICIAL BONDS FOR CITY EMPLOYEES.**

The City Manager and the City Secretary and such other City officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the City of Freeport and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credit, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Freeport, and such bonds must be acceptable to the City Council.

### **SECTION 3.13. INVESTIGATION BY THE CITY COUNCIL.**

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed five hundred (\$500.00) dollars.

(Amendment adopted by electorate 5-24-04)

### **SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.**

City Council shall, ~~as soon as feasible, after the close of the fiscal year,~~ select a Certified Public Accountant for the purpose of performing a complete annual audit of all books, records and accounting systems being used by the City, in accordance with State law. ~~It shall be the duty of such Certified Public Accountant to perform two (2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and a~~ All audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any originals of the City's accounts or records.

(Res. No. 803, § 3, 4-7-69)

### **SECTION 3.15. PUBLICATION OF FINANCIAL STATEMENT.**

As soon as possible after the close of each quarter of the fiscal year, the City Manager shall cause a financial statement for such quarter to be prepared and made available for inspection by the public in the office of the City Secretary and maintain such report on the City's website for the next succeeding quarter of the fiscal year.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-14)

## **ARTICLE 4. ADMINISTRATIVE SERVICES**

### **SECTION 4.01. CITY MANAGER.**

(a) Appointment and Qualifications: The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. ~~He~~ The City Manger shall be chosen by the City Council solely on the basis of his or her executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Freeport. No member of the City Council shall, during the time for which he or she is elected and for one year thereafter, be appointed City Manager.

(b) Term and Salary: The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. If the City Manager should be suspended, or if the office of City Manager is vacant by reason of the death, resignation or removal of the City Manager, the City Council shall appoint some qualified person to perform the duties of such office as Acting City Manager until such suspension is lifted or a permanent City Manager is appointed and qualifies. The City Manager and any Acting City Manager shall receive such compensation as may be fixed by the City Council.

(c) Duties of the City Manager:



- (1) Appoint, and when necessary for the welfare of the City, remove any employee of the City, except as otherwise provided by this Charter;
- (2) Prepare the budget annually and submit it to the City Council, and be responsible for its administration after adoption;
- (3) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable;
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

(d) Absence or disability of the City Manager. If the City Manager is unable to perform the duties of such office as a result of absence or disability, or if such office becomes vacant and the City Council has not yet appointed an Acting City Manager, the Mayor may designate in writing, to be filed with the City Secretary, a qualified employee of the City to perform the duties of the City Manager during such absence or disability or, in the case of such office becoming vacant, until an Acting City Manager has been appointed by the City Council. Provided, however, any such designation shall expire on the day following the next regular meeting of the City Council unless confirmed by the City Council at such meeting.

(e) Within six (6) months of his or her appointment, the City Manager shall establish and thereafter maintain a place of residence within the eCity for the duration of his or her employment by the eCity in such capacity. Provided, however, this requirement shall not apply to the person serving as the City Manager on the date it becomes a part of the Home Rule Charter.  
(Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-10-14)

#### **SECTION 4.02. DEPARTMENT OF POLICE.**

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The eChief of pPolice shall be the chief administrative officer of the ~~department of police~~ Police Department. ~~He~~ The Chief of Police shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of ~~him~~ the Chief of Police by the eCity eCouncil. The eChief of pPolice shall be appointed by the eCity mManager, with the approval of the eCity eCouncil, for an indefinite term. Within six (6) months of his or her appointment, the Chief of Police shall establish and thereafter maintain a place of residence within 30 miles from the City for the duration of his

or her employment by the City in such capacity. The eChief of pPolice shall be responsible to the eCity mManager for the administration of the pPolice dDepartment and the carrying out of the directives of the eCity eCouncil. The eChief of pPolice may be removed from office by the eCity mManager with the approval of the eCity eCouncil.

(b) Special Police. No persons except as otherwise provided by general law or this Charter or the ordinances passed pursuant thereto shall act as special police or special detective.  
(Amendment adopted by electorate 5-7-94)

(c) The Chief of Police shall appoint one of the members of the Police Department to act as warrant officer. The warrant officer shall execute warrants and other process issued by the Judge or Clerk of the Municipal Court, attend and act as bailiff at all sessions of the Municipal Court, act as security officer for all Municipal Court personnel and perform such other and further duties as may be requested of ~~him~~ the Chief of Police by the Municipal Court Judge or assigned by the Chief of Police, with priority being given by the warrant officer to discharging the duties of warrant officer as specified herein.  
(Amendment adopted by electorate 5-12-12)

#### **SECTION 4.03. CITY SECRETARY.**

The City Manager shall appoint a competent person as City Secretary and such assistants as the City Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of the proceedings of such meetings, and shall authenticate by ~~his~~ signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties the City Manager shall assign ~~to him~~, and those elsewhere provided for in this Charter and the laws of the State of Texas.

#### **SECTION 4.04. DIRECTOR OF FINANCE.**

The City Manager shall appoint a competent person as Director of Finance and such assistants as the City Council shall deem advisable. The Director of Finance shall perform the duties delegated ~~to him~~ by the City Manager and those which may be imposed upon municipal treasurers or finance directors by the laws of the State of Texas.  
(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08)

#### **SECTION 4.04A. MULTIPLE DUTIES.**

The duties of the City Manager, City Secretary, Tax Assessor and Collector, and Director of Finance may be performed by the same individual for not more than six (6) consecutive months.  
(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08; Amendment adopted by electorate 5-15-18)

#### **SECTION 4.05. MUNICIPAL COURT.**

(a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter prescribed by the laws of the State of Texas relative to such court.

(b) The Judge of said Court shall be a qualified voter of Brazoria County, Texas appointed by the City Council, shall hold such office at the pleasure of the City Council, and shall receive such salary as may be fixed by the City Council.  
(Amendment adopted by electorate 5-8-10)

(c) The City Manager shall appoint and when necessary for the welfare of the City, remove the Municipal Court Clerk and any Deputy Municipal Court Clerks but the number of deputies and the salary of the clerk and all deputies shall be fixed by the City Council.

(d) The Clerk of said Court and ~~his any such~~ deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

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(e) At the request of the Judge of said Court, the City Council may appoint one or more Associate Judges for said Court to sit concurrently with the Judge of said Court. An Associate Judge of said Court shall have the same qualifications as the Judge of said Court, shall serve at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council and, when acting in such capacity, shall have all the powers and duties of the Judge of said Court.  
(Res. No. 916, Props. 3, 4, 4-9-73) (Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

#### **SECTION 4.06. CITY ATTORNEY.**

The City Council shall appoint a duly licensed attorney practicing law, who shall be the City Attorney. ~~He~~ The City Attorney shall receive for ~~his~~ services such compensation as may be fixed by the City Council and shall hold ~~his~~ office at the pleasure of the City Council. The City Attorney, or such other attorneys selected ~~by him~~ with the approval of the City Council, shall represent the City in all litigation. ~~He~~ The City Attorney shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.  
(Amendment adopted by electorate 5-8-10) (Ord. No. 2020-2617, § 3(4.06), 11-17-2020)

#### **SECTION 4.07. ~~DEPARTMENT OF HEALTH AND SANITATION OFFICER.~~**

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health

Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas. ~~The City Health Officer shall be the Director of the Department of Health and Sanitation, unless the office of City Health Officer is vacant, in which event the City Manager shall appoint an employee of the City to be the Supervisor of such Department.~~

~~(b) — Administration. The City Manager shall be responsible to the City Health Officer for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.~~

(eb) Duties of the Health Officer. The City Health Officer shall advise ~~with~~ the City Council on a program of Public Health; ~~shall cooperate in the preparation of a Sanitary Code;~~ shall cooperate with nearby cities on problems of health ~~and sanitation;~~ shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health ~~and sanitation.~~  
(Election of 4-3-82; Amendment adopted by electorate 5-6-00; Amendment adopted by electorate 5-12-12)

#### **SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.**

For the protection of property and lives within the eCity, there is hereby established and there shall be maintained by the eCity a department to be known as the Freeport Fire and E.M.S. (“Emergency Medical Service”). ~~The Fire Chief shall be the chief administrative officer of the department of Fire and E.M.S. The Fire Chief shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of the Fire Chief by the City Council. Within six (6) months of appointment, the Fire Chief shall establish and thereafter maintain a place of residence within 30 miles from the City for the duration employment by the City in such capacity.~~  
(Amendment adopted by electorate 5-16-16)

#### **SECTION 4.09. OTHER DEPARTMENTS.**

The City Council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the City and may divide the administration of any such departments as it may deem advisable; may create new departments and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.

### **ARTICLE 5. NOMINATIONS AND ELECTIONS**

#### **SECTION 5.01. ELECTIONS.**

The regular City Election shall be held annually on the first Saturday in May at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and voting places for holding such election. The City Council may, by resolution duly enacted, order a special election, fix the time and place of holding the same and provide all means of holding such election. Notice of such election shall be given in the manner and time prescribed by law.

(Res. No. 916, Prop. 5, 4-9-73; Amended 5-88)

**SECTION 5.02. REGULATION OF ELECTIONS.**

The City Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities who shall also have power to make regulations not inconsistent with this Charter or with any regulations made by the Council or the laws of the State of Texas.

**SECTION 5.03. FILING FOR OFFICE.**

Any person having the qualifications prescribed in Section 3.02 of this Charter who desires to become a candidate for any elective office shall file with the City Secretary within the time limits therein specified a written application containing the matters required by the Texas Election Code. (Amendment adopted by electorate 5-7-94)

**SECTION 5.04. THE OFFICIAL BALLOT.**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the City Council. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

**SECTION 5.05. ELECTION BY MAJORITY.**

Election to office shall be by majority with the candidate receiving a majority of the number of votes (if otherwise qualified) being deemed elected to office. If no candidate gains a majority of the votes, the City Council shall cause to be held a runoff election between the two (2) candidates with the most votes to be held during the same calendar year and on a day permitted by the Texas Election Code. In the event of a tie at any election, lots shall be cast to determine a winner in accordance with the Texas Election Code.

(Amendment adopted by electorate 5-4-92; Amendment adopted by electorate 5-16-16)

**SECTION 5.06. LAWS GOVERNING CITY ELECTIONS.**

In the event of a conflict, the laws of the State of Texas and of the United States governing general and municipal elections shall prevail over the provisions of this charter.  
(Amendment adopted by electorate 5-10-08)

**SECTION 5.07. CONDUCTING AND CANVASSING ELECTIONS.**

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of the State of Texas. Within five (5) days after an election, the City Council shall meet, open the return, canvass and officially declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected as hereinbefore provided.

**SECTION 5.08. OATH OF OFFICE.**

(a) The mMayor and other members of the eCity eCouncil and all appointed officers of the eCity, before they enter upon the duties of their offices, shall take and subscribe to the following oath or affirmation to be filed and kept in the office of the eCity secretary:

“I, (name), do solemnly swear (or affirm) that I will faithfully execute the duties of the office of (title) of the City of Freeport, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States and the State of Texas and the Charter and Ordinances of the City of Freeport, so help me God.”

(b) The mMayor and other members of the eCity eCouncil and all appointed officers of the eCity, before taking the oath or affirmation contained in subsection(a) above, shall subscribe and file with the Secretary of State of Texas the following statement:

“I, (name), do solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or thing of value, or promised any public office or employment (for the giving or withholding of a vote at the election at which I was elected; as a reward to secure my appointment or confirmation thereof), so help me God.”

(Amendment adopted by electorate 5-7-94)

**SECTION 5.09. CANCELLATION OF ELECTIONS.**

The City Council may cancel an election of officers and declare each unopposed candidate elected to office when the City Secretary certifies that (1) the deadlines for placement of candidates' names on the ballot and for declaration of write-in candidacy has passed, (2) all candidacies for such election are unopposed, and (3) there are no propositions to be placed on the ballot of such election.

(Amendment adopted by electorate 5-2-98)

**SECTION 5.10. LIMITATION ON CONSECUTIVE TERMS OF OFFICE.**

No person shall be eligible to become a candidate for election to the same office for more than ~~two~~ three (23) consecutive terms. Provided, however, the previous terms to which any person holding an elective office on the date this provision becomes effective shall not be counted.

(Amendment adopted by electorate 5-16-16) (Ord. No. 2020-2617, § 3(5.10), 11-17-2020)

**ARTICLE 6. RECALL OF OFFICERS**

**SECTION 6.01. SCOPE OF RECALL.**

Any elected City Official, whether elected to office by the qualified voters of the City or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

**SECTION 6.02. PETITIONS FOR RECALL.**

The question of the recall of the Mayor shall be submitted to the qualified voters of the entire City but the question of the recall of the members of the City Council shall only be submitted to the qualified voters of the single member district or ward from which such member was elected. Recall shall be initiated by the filing of a petition with the person performing the duties of the City Secretary. In the case of the Mayor, such petition shall be signed by a number of the qualified voters of the City equal to at least fifty-one percent (51%) of the number of votes cast at the last regular municipal election of the City but in no event less than two hundred (200) petitioners. In the case of the other members of the City Council, such petition shall be signed by a number of the qualified voters residing in the single member district or ward from which such member was elected to equal to at least fifty-one percent (51%) of the number of votes cast at the last regular municipal election held in such single member district or ward but in no event less than one hundred (100) petitioners.

(Amendment adopted by electorate 5-4-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-08)

**SECTION 6.03. FORM OF RECALL PETITION.**

(a) The recall petition mentioned above must be addressed to the City Council of the City of Freeport, must distinctly and specifically point out the ground, or grounds, upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which ~~he~~ the officer is charged. The signature shall be verified by oath in the following form:

STATE OF TEXAS COUNTY OF BRAZORIA

I, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this \_\_\_\_ day of \_\_\_\_, Notary Public in and for Brazoria County, Texas

(b) Should it be proved to the satisfaction of the City Council that the affidavit above stated is false, then in such event, it shall be the duty of the City Secretary to cause criminal charges to be filed against the affiant therein.

**SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.**

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than ~~forty-five~~one hundred and eighty (18045) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to ~~his~~the officer's Freeport address.

**SECTION 6.05. PRESENTATION OF PETITION TO CITY COUNCIL.**

Within five (5) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of Freeport.

**SECTION 6.06. PUBLIC HEARING TO BE HELD.**

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit ~~him~~the officer to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

**SECTION 6.07. ELECTION TO BE CALLED.**



If the officer whose removal is sought does not resign, ~~than-then~~ it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held.

**SECTION 6.08. BALLOTS IN RECALL ELECTION.**

Ballots used at recall elections shall conform to the following requirements:

(a) With respect to each person whose removal is sought, the question shall be submitted:

“Shall (name of person) be removed from the office (name of office) by recall?”

(b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

“YES”

“NO”

**SECTION 6.09. RESULT OF RECALL ELECTION.**

If a majority of the votes cast at a recall election shall be “NO”, that is, against the recall of the person named on the ballot, ~~he-the officer~~ shall continue in office for the remainder of ~~his-the officer's~~ unexpired term, subject to recall as before. If a majority of the votes cast at such an election be “YES”, that is, for the recall of the person named on the ballot, ~~he-the officer~~ shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.06 of this Charter.

**SECTION 6.10. RECALL, RESTRICTIONS THEREON.**

No recall petition shall be filed against any officer of the City of Freeport within three (3) months after ~~his-a City~~ election, nor within three (3) months after an election for such officer's recall.

**SECTION 6.11. FAILURE OF CITY COUNCIL TO CALL AN ELECTION.**

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Brazoria County, Texas, shall hereby be empowered and directed to

discharge any of such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the City Council.

**ARTICLE 7. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM.**

**SECTION 7.01. GENERAL POWER.**

The qualified voters of the City of Freeport, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

**SECTION 7.02. INITIATIVE.**

The qualified voters of the City of Freeport may initiate legislation by submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. The petition must be signed by two hundred (200) qualified voters of the City or by a number of qualified voters equal in number to thirty percent (30%) of the number of votes cast at the last regular municipal election of the City, whichever is greater. The petition shall be signed in the same manner as recall petitions are signed, as provided in Section 6.02 of this Charter, and shall be verified by oath in the manner and form provided for recall petitions in Section 6.03 of this Charter. The petition may consist of one or more copies as permitted for recall petitions in Section 6.04 of this Charter but each copy of the petition shall have attached to it a copy of the proposed ordinance or resolution. The petition shall be filed with the person performing the duties of City Secretary. Within five (5) days after the filing of the petition, the person performing the duties of City Secretary shall present the petition and the proposed ordinance or resolution to the City Council. Upon presentation to ~~it~~ City Council of the petition and the proposed ordinance or resolution, it shall become the duty of the City Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date specified in the Texas Election Code at which the qualified voters of the City of Freeport shall vote on the question of adopting or rejecting the proposed legislation. Provided, however, if there are less than forty-five (45) days remaining before such date, then such special election shall be called for the next succeeding uniform election date occurring after the expiration of forty-five (45) days.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-6-96)

**SECTION 7.03. REFERENDUM.**

Qualified voters of the City of Freeport may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 7.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Upon the filing of such petition, the person

performing the duties of City Secretary shall present said petition to the City Council at its next meeting. Thereupon the City Council shall reconsider such ordinance or resolution, and if ~~it~~ City Council does not entirely repeal the same, City Council shall submit it to popular vote as provided in Section 7.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters thereon at such election shall vote in favor thereof.

**SECTION 7.04. VOLUNTARY SUBMISSION OF LEGISLATION BY THE CITY COUNCIL.**

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance, or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

**SECTION 7.05. FORM OF BALLOTS.**

The ballots used when voting upon such proposed and referred ordinances, resolutions, or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

“FOR the ORDINANCE,” and

“AGAINST the ORDINANCE,” or

“FOR the RESOLUTION,” and

“AGAINST the RESOLUTION.”

**SECTION 7.06. PUBLICATION OF PROPOSED AND REFERRED ORDINANCES.**

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution at least fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

**SECTION 7.07. ADOPTION OF ORDINANCES.**

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the City Council.

**SECTION 7.08. INCONSISTENT ORDINANCES.**

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

**SECTION 7.09. ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT.**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission provided in Section 7.04 of this Charter.

**SECTION 7.10. FURTHER REGULATIONS BY CITY COUNCIL.**

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith.

**SECTION 7.11. FRANCHISE ORDINANCES.**

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article 10 of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

**ARTICLE 8. MUNICIPAL PLANNING AND ZONING.**

**SECTION 8.01. PLATTING OF PROPERTY.**

(a) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Freeport, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the City, shall comply with the provisions of ~~Article~~ Chapter 212 of the Local Government Code, as now hereafter amended, and incorporated herein for all purposes.

(b) The provisions of Section 8.01(a) above shall apply similarly to the owner of any tract of land situated within the actual eCity limits of the City of Freeport, Texas, or within any extraterritorial jurisdiction of said City, as such extraterritorial jurisdiction exists or may be extended under the laws of the State of Texas.

(Ord. No. 916, Prop. 6, 4-9-73; Amendment adopted by electorate 5-7-94)

**SECTION 8.02. DEVELOPMENT OF PROPERTY.**

The expenditure of public funds shall be authorized for the development of privately-owned land or subdivisions for economic development, only with a legally valid Chapter 380 aAgreement approved by City Council and signed by the mMayor, following a public hearing on the matter. Such expenditures may be for projects situated within or beyond the corporate limits of the City. (Amendment adopted by electorate 5-10-08) (Ord. No. 2020-2617, § 3(8.02), 11-17-2020)

### **SECTION 8.03. PLANNING COMMISSION.**

The City Council shall appoint a City Planning Commission consisting of five (5) members who shall be residents in the City of Freeport while serving and for not less than six (6) months prior to being appointed, and who shall serve without compensation.

(a) Term of Office: The terms of office of all persons serving on the Planning Commission shall be established by ordinance adopted by the City Council.

(b) Rules of Procedure: The Commission shall elect, annually, one of its members chairman, and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the chairman being entitled to vote upon any question. No member of the Planning Commission present at a meeting shall be excused from voting, and each member of the Planning Commission present at the meeting must announce his-a vote on questions, ordinances, or resolutions; provided however, a Commission Member shall be excused from voting whenever the subject matter under consideration involves his-the Member's personal financial interests, and on this particular matter he-the Member shall not vote but shall give his-the reasons for not voting. All meetings shall be open to the public and a record of all proceedings shall be kept, which record shall be filed with the person performing the duties of City Secretary and shall be a public record. The annual election of the chairperson shall take place in June of each year or whenever all vacant positions have been filled, whichever is later.

(c) Vacancies: Membership on the Planning Commission shall be accompanied by active participation in the activities of the Commission, and any member who is absent from three (3) consecutive regular meetings of the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the City Council that a vacancy in the Planning Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the City Council for the remainder of the unexpired term.

(d) Powers and Duties: The Commission shall have the power and shall be required to:

- (1) Make recommendations for the amendment, extension and additions to the master plan for the physical development of the City;

(2) Approve or disapprove plats of proposed subdivisions submitted in accordance with Section 8.01 of this Charter. In considering such plats, the Planning Commission shall require that the proposed subdivision shall meet, so far as is practicable, all the standards of layout and street and sidewalk construction on comparable property within the corporate limits of the City of Freeport, and shall further require that restrictions be placed on the use of the property which are consistent with the restrictions on comparable property within the City of Freeport. Upon approving such plats, and before they are released for recording, the Planning Commission shall submit all copies of the approved plats to the City Council for its approval or disapproval;

(3) Draft, and recommend to the City Council for adoption, an official map of the City and recommend or disapprove proposed changes in such map;

(4) Make, and recommend to the City Council for adoption, a zoning plan and recommend or disapprove proposed changes in such plan;

(5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of ~~slum districts~~substandard structures and blighted areas which may develop within the City;

(6) Compile and recommend to the City Council for adoption, a building code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for wiring;

(7) Advise and recommend to the City Council traffic regulations for the City;

(8) Meet not less than once each month; meetings to be held at the Municipal Courtroom of the Municipal Court and Police Department Building, unless otherwise indicated in the posted notice for such meeting;

(9) Perform such other duties and be vested with such other powers as the City Council shall from time to time prescribe.

(e) Liaison with City Council: The City Manager or his-a designated representative shall attend the meetings of the Planning Commission and shall serve as liaison between the Planning Commission and the City Council.

(Res. No. 1129, Props. 7, 8, 4-7-79; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-13-06; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

**SECTION 8.04. ZONING BOARD OF ADJUSTMENT.**

The City Council may serve as a Zoning Board of Adjustment or may appoint a Zoning Board of Adjustment by ordinance. The Board shall have all powers granted in Chapter 211 of the Local Government Code, as now or hereafter amended.

(Amendment adopted by electorate 5-7-94)

## **ARTICLE 9. MUNICIPAL FINANCE.**

### **SECTION 9.01. FISCAL YEAR.**

The fiscal year of the City of Freeport shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

### **SECTION 9.02. PREPARATION AND SUBMISSION OF BUDGET.**

The City Manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy;
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds;
- (c) An analysis of property valuations;
- (d) An analysis of tax rate;
- (e) Tax levies and tax collections by years for at least five (5) years;
- (f) General fund resources in detail;
- (g) Special fund resources in detail;
- (h) Summary of proposed expenditures by function, department, and activity;
- (i) Detailed estimates of expenditures shown separately for each activity to support summary No.(h) above;
- (j) A revenue and expense statement for all types of bonds;

- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;
- (l) A schedule of requirements for the principal and interest of each issue of bonds;
- (m) The appropriation ordinance; and
- (n) The tax-levying ordinance.

**SECTION 9.03. ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET.**

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last complete fiscal year, the estimated amount of the current fiscal year, and the proposed amount for the ensuing fiscal year.

**SECTION 9.04. PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS.**

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

**SECTION 9.05. BUDGET A PUBLIC RECORD.**

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council, and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

**SECTION 9.06. NOTICE OF PUBLIC HEARING ON BUDGET.**

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in the official newspaper of the City of Freeport, a notice of the hearing setting forth the time and place thereof at least fifteen (15) days before the date of such hearing.

**SECTION 9.07. PUBLIC HEARING ON BUDGET.**

At the time and place set forth in the notice required by Section 9.06, or at any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.



**SECTION 9.08. PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING.**

After the conclusion of such public hearing, the City Council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue at least to equal such proposed expenditures.

**SECTION 9.09. VOTE REQUIRED FOR ADOPTION.**

The budget shall be adopted by the favorable vote of a majority of the members of the whole City Council.

**SECTION 9.10. DATE FOR FINAL ADOPTION.**

The budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year. If delayed by a situation beyond control of the City, it shall be acted on as soon as practicable.

(Amended 4-86)

**SECTION 9.11. EFFECTIVE DATE OF BUDGET; CERTIFICATIONS; COPIES MADE AVAILABLE.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary, the County Clerk of Brazoria County and the State Controller of Public Accounts at Austin. The final budget shall be printed, mimeo-graphed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

**SECTION 9.12. BUDGET ESTABLISHES APPROPRIATIONS.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

**SECTION 9.13. BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX.**

From the effective date of the budget, the amount therein stated as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year; provided however, that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State of Texas.

**SECTION 9.14. CONTINGENT APPROPRIATION.**

Provisions shall be made in the annual budget and in the appropriation ordinance for an appropriation of a reserve and or contingency allocation in an amount not more than 5% of the total annual budget; however, the 5% may only be allocated annually under the condition the "undesignated" reserve/contingency funds in general revenue does not exceed eight million dollars. All reserve/contingency funds may only be used with the specific consent of the City Council for unforeseen contingencies by the City Manager.

(Amendment adopted by electorate 5-12-12)

**SECTION 9.15. ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES.**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

**SECTION 9.16. OTHER NECESSARY APPROPRIATIONS.**

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

**SECTION 9.17. DEPARTMENT OF TAXATION.**

Unless the eCity eCouncil has required the eCounty to assess and collect eCity taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended, the eCity mManager shall appoint a qualified person to be eCity tax assessor-collector. Such person shall give a surety bond for the faithful performance of the duties of such office, including by way of illustration and not limitation, compliance with the controlling provisions of the sState law bearing upon the functions of such office, in a sum which shall be fixed by the eCity eCouncil at not less than ten thousand dollars. If the eCity eCouncil has required the eCounty to assess and collect eCity taxes, the applicable duties of the eCity tax assessor-collector contained in this article shall be performed by the eCounty tax assessor-collector or, if not, then by the eCity mManager.

(Amendment adopted by electorate 5-7-94)

**SECTION 9.18. POWER TO TAX.**

The City Council shall have the power under the provisions of the state law to levy, assess and collect an annual tax upon real and personal property within the City to the maximum provided by the Constitution and general laws of the State of Texas.

**SECTION 9.19. PROPERTY SUBJECT TO TAX, METHOD OF ASSESSMENT.**

All real and personal property within the City of Freeport not expressly exempted by law, shall be subject to annual taxation in the manner provided in the Tax Code of the State of Texas, as now or hereafter amended.

(Amendment adopted by electorate 5-7-94)

**SECTION 9.20.(DELETED).**

**SECTION 9.21.(DELETED).**

**SECTION 9.22.(DELETED).**

**SECTION 9.23.(DELETED).**

**SECTION 9.24. TAXES; WHEN DUE AND PAYABLE.**

All taxes due the City of Freeport may be paid at any time after the tax roll for the year has been approved, which shall ~~not be not~~ later than October first (1st); and such taxes shall be payable at the office of the Brazoria County Assessor-Collector of Taxes at Angleton, Texas, if the eCity eCouncil has required the eCounty to assess and collect eCity taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended; otherwise, such taxes shall be due and payable at the office of the City Tax Assessor-Collector.

(Amendment adopted by electorate 5-7-94)

**SECTION 9.25. TAX LIENS.**

The tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property as of January first (1st) upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this sState or person whose residence is unknown, but also against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

**ARTICLE 10. FRANCHISE AND PUBLIC UTILITIES.**

**SECTION 10.01. POWERS OF THE CITY.**

In addition to the City's power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

**SECTION 10.02. FRANCHISE POWER OF CITY COUNCIL.**

The City Council shall have the power, by ordinance, to grant, amend by mutual agreement, renew and extend, all franchises of all public utilities of every character operating within the City of Freeport, Texas. All ordinances granting, amending, renewing or extending franchises for public utilities shall not be finally passed or read for passage until the full text of the proposed ordinance has been published in the official newspaper of said City, at least one time, at least thirty (30) days prior to such ordinance being read for passage by the City Council. The expense of publishing such proposed franchise ordinance, amendment or renewal shall be borne by the proponent of such franchise. No public utility franchise shall be granted for more than fifty (50) years, nor shall such franchise be transferable except with the approval of City Council expressed by ordinance. The term "transferable," as used herein, is not to be construed in such a manner as to prevent such utility from pledging security for valid debt or mortgage.

(Res. No. 916, Prop. 9, 4-9-73)

**SECTION 10.03. FRANCHISE VALUE NOT TO BE ALLOWED.**

No value shall be assigned to any franchise granted by the City of Freeport under this Charter in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

**SECTION 10.04. RIGHT OF REGULATION.**

All grants, removals, extensions, or amendments of public utility franchise, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of Freeport:

- (a) To repeal the same by ordinance, after thirty (30) days' advance notice (during which time the grantee shall have the opportunity to correct any default), and hearing, upon the failure of grantee to comply with the ordinances, franchise and Charter of the City of Freeport; and from which decision of the City Council, the grantee shall have the right of appeal to the Courts of this State;

- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To examine and audit at any time during regular business hours the accounts and other records of any such utility which are relevant to the City's right of regulation, and to require annual and other reports, including reports on operation within the City of Freeport;
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public; and
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

**SECTION 10.05. REGULATIONS OF RATES AND SERVICE.**

The City Council shall have the power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating in the City of Freeport; shall have the power to employ expert advice and assistance in determining a reasonable rate and equitable profit to the public utility; and shall have the power to require within the franchise grant, or any extension, or renewal thereof, or as a condition precedent to any hearing concerning rates and service of any public utility operating within the said City, that the movant seeking the rate or service change pay the reasonable cost of the service of a rate consultant of the choice of the City Council.

**SECTION 10.06. GRANT NOT TO BE EXCLUSIVE.**

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

**SECTION 10.07. CONSENT OF PROPERTY OWNERS.**

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but such abutting and adjacent property shall thereafter be restored to its previous condition and nothing in this Charter or in any franchise granted hereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his or her property as now or hereafter provided by law.  
(Amendment adopted by electorate 5-16-16)

**SECTION 10.08. EXTENSIONS.**

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in the original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 10.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

**SECTION 10.09. OTHER CONDITIONS.**

All franchises heretofore granted are recognized as contracts between the City of Freeport and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the City Council or voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

**SECTION 10.10. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES.**

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any City Government Department. The City Council shall cause an annual report to be made by a Certified Public Accountant and shall publish such report showing the financial results of such City ownership and operation, giving the information specified in this section and such other data as the City Council shall deem expedient.

**SECTION 10.11. SALES OF WATER, SEWER AND ANY OTHER SERVICES.**

(a) The City Council shall have the power and authority to sell and distribute water, and to sell and provide sewer and any other service to any person, firm or corporation outside the limits of the City of Freeport, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City; provided the charges fixed for such services outside the City limits shall be reasonable when considered in the light of all circumstances to be determined by the City Council.

(b) The City Council shall have the power and authority to prescribe the kind of water or sewer pipes used within or beyond the limits of the City of Freeport where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

## **ARTICLE 11. GENERAL PROVISIONS.**

### **SECTION 11.01. PUBLICITY OF RECORDS**

All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council or the Mayor, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

### **SECTION 11.011. SELECTION OF NEWSPAPERS FOR PUBLICATIONS.**

(a) Every ordinance or resolution adopted by the City Council, which is required to be published in a newspaper, shall designate, in the body thereof, one or more newspapers of general circulation within the City of Freeport in which such ordinance or resolution, or the descriptive caption thereof, shall be published; and it shall also appear on the City's website for at least ten (10) days or for the length of time between each publication, if it is required to be published more than once, whichever is longer.

(b) Each officer of the City, who is required to publish any printed notice or other printed matter in any newspaper, shall select one or more newspapers in which such printed notice or other printed matter shall be published.

(c) No newspaper may be designated or selected that does not meet all of the applicable requirements of sState law for newspaper publication. Provided, however, the designation or selection of a newspaper as provided above shall be prima facie evidence that such newspaper met all of such requirements at the time of such publication.

(d) When a newspaper is designated or selected as provided above, it shall be deemed to be an "official newspaper" of the City, as that term is used in any provision of this Charter, the ordinances of the City or any statute or regulation requiring publication.

(Adopted by electorate 5-24-04; Amendment adopted by electorate 5-16-16)

(Ord. No. 2020-2617, § 3(11.011), 11-17-2020)

### **SECTION 11.02. PERSONAL INTEREST.**

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested directly, or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one percent (1%) of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council participate in the deliberation, vote, or other decision on any matter involving a business entity or real property in which the officer or employee has a substantial interest as provided by Chapter 171 of the Texas Local Government Code. For purposes of this section, an officer or employee has a substantial interest in a business entity if:

- (1) the officer or employee owns 10 percent (10%) or more of the voting stock or shares of the business entity or owns either 10 percent (10%) or more or \$15,000 or more of the fair market value of the business entity; or
- (2) funds received by the officer or employee from the business entity exceed 10 percent (10%) of the person's gross income for the previous year.

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An officer or employee has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An officer or employee is prohibited from participating in the deliberation, vote, or other decision involving such real property if it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property, distinguishable from its effect on the public. An officer or employee is considered to have a substantial interest under this section if a person related to the officer or employee in the first degree by consanguinity or affinity, as determined under Chapter 573, Texas Government Code, has a substantial interest under this section.

#### **SECTION 11.03. DRILLING OPERATIONS.**

The City Council may, by ordinance prohibit the drilling of oil, gas and sulphur wells, or may provide regulations for the drilling, spacing, completion and operation of oil, gas and sulphur wells. The City Council may, by ordinance, prohibit the drilling of water wells for commercial, industrial and agricultural purposes, and may provide regulations for the drilling and use of water wells for commercial, industrial, agricultural and domestic purposes.

#### **SECTION 11.04. NEPOTISM.**

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position or clerkship or other service of the City.



**SECTION 11.05. PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT.**

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

**SECTION 11.06. CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTIVE BOND.**

It shall not be necessary in any action, suit or proceeding in which the City of Freeport is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

**SECTION 11.07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.**

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone ~~in his~~that person's behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within ~~thirty(30) days~~six (6) months after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties of City Secretary, not later than two (2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within ~~thirty (30) days~~six (6) months after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.

(Amended 5-88)

**SECTION 11.08. SEPARABILITY CLAUSE.**

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdictions, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

**SECTION 11.09. EFFECT OF THIS CHARTER ON EXISTING LAW.**

All ordinances, resolutions, rules, regulations now in force under the City Government of Freeport and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights of the City of Freeport under existing franchises and contracts are preserved in full force and effect to the City of Freeport.

**~~SECTION 11.10. INTERIM MUNICIPAL GOVERNMENT.~~**

~~The members of the governing body holding office when this Charter is adopted shall continue in office under the terms of Article 3 of this Charter.~~

**SECTION 11.~~10~~11. APPLICABILITY OF GENERAL LAWS.**

The Constitution of the State of Texas, the statutes of said State applicable to Home-Ruled Municipal Corporation, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Freeport, but the City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of Freeport shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

**SECTION 11.~~11~~11. AMENDING THE CHARTER.**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. ~~In the event the United States Department of Justice should fail or refuse to pre-clear any proposed amendment to this charter which submitted to the voters at a charter amendment election and which is required by law to be pre-cleared by said department; and if at such election the majority of voters vote in favor of such proposed amendment, such proposed amendment shall nevertheless have no force and effect unless and until it has either been pre-cleared by said department or the validity of such proposed amendment has been established by the final judgment of a court of competent jurisdiction.~~

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02)

**SECTION 11.1312. CHARTER REVIEW COMMISSION.**

The City Council shall appoint at its first regular meeting in June in each odd numbered year, a Charter Review Commission of five citizens of the City of Freeport.

- (a) Duties of the Commission: It shall be the duty of such Charter Review Commission to:
- (1) Inquire into the operation of the City Government under the Charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held; and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing;
  - (2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the City Government;
  - (3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions;
  - (4) Report its finding and present its proposed amendments, if any, to the City Council.
- (b) Action by the City Council: The City Council shall receive and have published in the official newspaper of the City any report presented by the Charter Review Commission, shall consider any recommendations made, and if any amendment or amendments be presented as a part of such report, may order such amendment or amendments to be submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. (Amendment adopted by electorate 5-2-98)
- (c) Term of Office: The term of office of such Charter Review Commission shall be six months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such Commission shall be filed with the person performing the duties of City Secretary and shall become a public record. (Election of 4-3-82)

**~~SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.~~**

~~The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Freeport at an election to be held for that purpose on the 18th day of June, 1960. Not less than thirty (30)~~

~~days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Freeport as appears from the latest tax collector's roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Freeport, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Texas Secretary of State and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.~~

**SECTION 11.1513. GENDER NEUTRAL PROVISION.**

Whenever in this Charter the pronouns he, him or his standing alone are used, such pronouns shall be construed to mean he or she, him or her and his or hers.  
(Amendment adopted by electorate 5-15-18)

~~We, the undersigned members of the Freeport Charter Review Commission, heretofore duly elected to prepare a Charter for the City of Freeport, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Freeport, Texas, as adopted unanimously by the members hereof.~~

~~Dwight N. Wetherell, Chairman~~

~~Earl B. Barnes, Vice Chairman~~

~~Mrs. Duncan MacLaren, Secretary~~

~~G. C. Hardman, Jr.~~

~~Mrs. Delia Capps~~

~~E. L. Haynes~~

~~Mrs. A. A. Miller~~

~~J. W. Royalty, Jr.~~

~~Mrs. Bertha Salmans  
Walter Snyder~~

~~Sam Sutherland, Jr.~~

~~Sanford R. Thompson~~

George T. Wommack

Harold E. Ammons

Dan M. Lawlis

**CITY OF FREEPORT**

**Charter Review Commission Recommendations**

**DRAFT**

**December 19, 2022**

**Proposed Changes to the Existing City of Freeport Home Rule Charter:** The following changes are proposed for Council consideration to be placed on the Ballot for the May 2023 General Election. In keeping with prior years' recommendation reports where the text in BLACK is the current language, the underlined **GREEN** text is the proposed language for inclusion in the Charter, the text in **RED** is the proposed ballot language and the text in **BLUE** is the rationale behind the change.

**Proposed Change #1: Correction to Spelling, Grammar, and Punctuation Errors in the Charter, see Section 3.02 below as an example.**

**Proposed Charter Language to correct such errors:**

**SECTION 3.02. QUALIFICATIONS.**

**The Mayor and each member of the City Council ... without a valid written excuse filed with the Mayor or Mayor Pro Tem ... and shall fill such vacancy as set forth in Section 3.06 of this Charter.**

**Proposed Ballot Language:**

**Proposition #1: Shall the Charter be amended to authorize City Council to correct spelling, grammar, and punctuation errors in the Charter?**

**Rationale for Change:**

**There are spelling, grammar, and punctuation errors within the Charter, and this proposition would authorize City Council to adopt a revised Charter correcting such errors.**

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**Proposed Change #2: Section 3.06**

**Current Charter Language:**

**SECTION 3.06. VACANCIES.**

When a vacancy occurs in the City Council, the remaining members thereof, must, within ten (10) days, appoint a qualified person to fill the unexpired term of such vacancy; provided, however, the City Council shall not appoint more than one council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the said City Council, or in the event that more than one vacancy shall occur at the same time; then in such event a special election shall be held within forty (40) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so

held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for an on behalf of said City, and to appoint qualified persons as election officials.

**Proposed Charter Language:**

**SECTION 3.06. VACANCIES.**

When a vacancy occurs in the City Council for a Council position that has an unexpired term of twelve (12) months or less, the remaining members thereof, shall appoint a qualified person to fill the unexpired term of such vacancy; provided, however, if the vacancy occurs with more than twelve (12) remaining on the unexpired term of such position, or in the event that more than one vacancy shall occur at the same time, then in such event a special election shall be held within one hundred and twenty (120) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for an on behalf of said City, and to appoint qualified persons as election officials.

**Proposed Ballot Language:**

Proposition #2: Shall the Charter be amended to provide that the filling of a vacancies on City Council be consistent with Article 11, Section 11 of the Texas Constitution?

**Rationale for Change:**

The Charter needs to be consistent with the Texas Constitution when filling vacancies on City Council.

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**Proposed Change #3: Updating references to State law in the Charter, see Section 3.07(p) and (q) as an example.**

**Current Charter Language:**

**SECTION 3.07. POWERS OF THE CITY COUNCIL**

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended;

(q) Exercise those powers enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a, Revised Civil Statutes of Texas, 1925, as the same exist

or may be hereafter amended;

**Proposed Charter Language:**

**SECTION 3.07. POWERS OF THE CITY COUNCIL**

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided by Chapter 311 of the Transportation Code, as now or hereafter amended;

(q) Exercise those powers related to harbor and port facilities provided by Chapter 54 of the Transportation Code, as now or hereafter amended;

**Proposed Ballot Language:**

Proposition #3: Shall the Charter be amended to authorize City Council to update all references to in the City's Charter to current State law?

**Rationale for Change:**

The Charter currently has references to outdated and uncodified State law that needs to be updated to current State law.

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**Proposed Change #4 and #5: Update references in the Charter to the City Secretary position and make references to persons or positions gender neutral, see Section 3.11 as an example.**

**Current Charter Language:**

**SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.**

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article 7 of this Charter. The clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record



the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

**Proposed Charter Language:**

**SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.**

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article 7 of this Charter. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

**Proposed Ballot Language:**

Proposition #4: Shall the Charter be amended to authorize City Council to update all references to City Clerk to now read City Secretary?

Proposition #5: Shall the Charter be amended to authorize City Council to make all references to persons or positions gender neutral?

**Rationale for Change:**

The Charter should reflect current references to the City Secretary position and be gender neutral throughout.

**Proposed Change #6: SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.**

**Current Charter Language:**

**SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.**

City Council shall, as soon as feasible, after the close of the fiscal year, select a Certified Public Accountant for the purpose of performing a complete audit of all books, records and accounting systems being used by the City. It shall be the duty of such Certified Public Accountant to perform two (2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

**Proposed Charter Language:**

**SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.**

City Council shall select a Certified Public Accountant for the purpose of performing a complete annual audit of all books, records and accounting systems being used by the City, in accordance with State law. All audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any originals of the City's accounts or records.

**Proposed Ballot Language:**

Proposition #6: Shall Section 3.14 of the Charter be amended to accurately reflect the City's annual audit requirements under State law?

**Rationale for Change:**

The current Charter language in Section 3.14 requires two unannounced audits of the City's records. This is not a practical requirement and is inconsistent with the audit requirements provided for in Chapter 103 of the Texas Local Government Code.

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**Proposed Change #7: SUBSECTION (a) Chief of Police, under SECTION 4.02. DEPARTMENT OF POLICE**

**Current Charter Language:**

**SECTION 4.02. DEPARTMENT OF POLICE.**

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite

term. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

**Proposed Charter Language:**

**SECTION 4.02. DEPARTMENT OF POLICE.**

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite term. Within six (6) months of his or her appointment, the Chief of Police shall establish and thereafter maintain a place of residence within 30 miles from the city for the duration of his or her employment by the city in such capacity. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

**Proposed Ballot Language:**

Proposition #7: Shall the Charter be amended to require the Chief of Police to establish a place of residency within 30 miles from the City?

**Rationale for Change:**

The Charter Review Commission felt that it was important for the Chief of the Police Department to resident close to the City in order to improve visibility and response time.

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**Proposed Change #8: SECTION 4.07. DEPARTMENT OF HEALTH AND SANITATION.**

**Current Charter Language:**

**SECTION 4.08. DEPARTMENT OF HEALTH AND SANITATION.**

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas. The City Health Officer shall be the Director of the Department of Health and Sanitation, unless the office of City Health Officer is vacant, in which event the City Manager shall appoint an employee of the City to be the Supervisor of such Department.

(b) Administration. The City Manager shall be responsible to the City Health Officer for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.

(c) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate in the preparation of a Sanitary Code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health and sanitation.

**Proposed Charter Language:**

**SECTION 4.08. HEALTH OFFICER.**

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas.

(b) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate with nearby cities on problems of health; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health.

**Proposed Ballot Language:**

Proposition #8: Shall the Charter be amended to update the qualifications and duties of the Health Officer to reflect current City practice and the role of a Municipal Health Officer?

**Rationale for Change:**

The City does not have a Department of Health, and the duties and responsibilities of a Health Officer have changed since this Charter provision was drafted. The proposed changes reflect current duties and responsibilities of the City's Health Officer.

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**Proposed Change #9: SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.**

**Current Charter Language:**

**SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.**

For the protection of property and lives within the city, there is hereby established and there shall be maintained by the city a department to be known as the Freeport Fire and E.M.S. (“Emergency Medical Service”).

**Proposed Charter Language:**

**SECTION 4.02. DEPARTMENT OF POLICE.**

For the protection of property and lives within the city, there is hereby established and there shall be maintained by the city a department to be known as the Freeport Fire and E.M.S. (“Emergency Medical Service”). The Fire Chief shall be the chief administrative officer of the department of Fire and EMS. The Fire Chief shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required by the City Council. Within six (6) months of his or her appointment, the Fire Chief shall establish and thereafter maintain a place of residence within 30 miles from the city for the duration of his or her employment by the City in such capacity.

**Proposed Ballot Language:**

**Proposition #9: Shall the Charter be amended to require the Fire Chief to act as the chief administrative officer of the department of Fire and EMS and to establish a place of residency within 30 miles from the City?**

**Rationale for Change:**

The added language about the Fire Chief being the chief administrative officer of the Fire and EMS department reflects current job duties and job description. The Charter Review Commission also felt that it was important for the Fire Chief to resident close to the City in order to improve visibility and response time.

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**Proposed Change #10: SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.**

**Current Charter Language:**

**SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.**

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Freeport address.

**Proposed Charter Language:**

#### **SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.**

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than one hundred and eighty (180) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Freeport address.

#### **Proposed Ballot Language:**

Proposition #10: Shall the Charter be amended to allow one hundred and eighty (180) days to submit signatures for a petition, which is consistent with State and Federal law?

#### **Rationale for Change:**

The Charter should be updated to be consistent with State and Federal law concerning the time allowed for signatures on a petition.

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#### **Proposed Change #11: SUBSECTION (d)(5) OF SECTION 8.03. PLANNING COMMISSION.**

#### **Current Charter Language:**

#### **SECTION 8.03. PLANNING COMMISSION.**

- (d) Powers and Duties: The Commission shall have the power and shall be required to:
- (5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City;

#### **Proposed Charter Language:**

#### **SECTION 8.03. PLANNING COMMISSION.**

- (d) Powers and Duties: The Commission shall have the power and shall be required to:
- (5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of substandard structures and blighted areas which may develop within the City;

#### **Proposed Ballot Language:**

Proposition #11: Shall the Charter be amended to remove the use of the word "slum districts" and replace with "substandard structures"?

**Rationale for Change:**

The use of the phrase “slum districts” is outdated and inappropriate. The Charter Review Commission recommends replacing that word with substandard structures, which the identification of same is part of the current duties of the Planning Commission.

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**Proposed Change #12: SECTION 11.02. PERSONAL INTEREST.**

**Current Charter Language:**

**SECTION 11.02. PERSONAL INTEREST.**

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested directly, or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one percent (1%) of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.

**Proposed Charter Language:**

**SECTION 11.02. PERSONAL INTEREST.**

No officer or employee of the City shall participate in a vote or decision on any matter involving a business entity or real property in which the official or employee has a substantial interest as provided by state law.

**Proposed Ballot Language:**

**Proposition #12: Shall the Charter be amended to update personal interest prohibitions to be consistent with State law?**

**Rationale for Change:**

The Charter should be consistent with the conflicts of interest provisions of Chapter 171 of the Texas Local Government Code.

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**Proposed Change #13: SECTION 11.07. SPECIAL PRIVISIONS COVERING DAMAGE SUITS.**

**Current Charter Language:**

**SECTION 11. 07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.**

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within thirty(30) days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties of City Secretary, not later than two (2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within thirty (30) days after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.

**Proposed Charter Language:**

**SECTION 11. 07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.**

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within six (6) months after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties of City Secretary, not later than two (2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within six (6) months after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.

**Proposed Ballot Language:**

Proposition #13: Shall the Charter be amended to update claims for damages against the City to be consistent with current State law?

**Rationale for Change:**

The recommended change for this section is to bring it into compliance with Texas Torts Claim Act.



**Proposed Change #14: SECTION 11.10. INTERIM MUNICIPAL GOVERNMENT.**

**Current Charter Language:**

**SECTION 11.10. INTERIM MUNICIPAL GOVERNMENT.**

The members of the governing body holding office when this Charter is adopted shall continue in office under the terms of Article 3 of this Charter.

**Proposed Charter Language:**

**[delete section in its entirety]**

**Proposed Ballot Language:**

**Proposition #14: Shall the Charter be amended to remove the obsolete section concerning Interim Municipal Government?**

**Rationale for Change:**

This section is obsolete and no longer needed.

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**Proposed Change #15: SECTION 11.12. AMENDING THE CHARTER.**

**Current Charter Language:**

**SECTION 11.12. AMENDING THE CHARTER.**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. In the event the United States Department of Justice should fail or refuse to pre-clear any proposed amendment to this charter which submitted to the voters at a charter amendment election and which is required by law to be pre-cleared by said department; and if at such election the majority of voters vote in favor of such proposed amendment, such proposed amendment shall nevertheless have no force and effect unless and until it has either been pre- cleared by said department or the validity of such proposed amendment has been established by the final judgment of a court of competent jurisdiction.

**Proposed Charter Language:**

**SECTION 11.12. AMENDING THE CHARTER.**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended.

**Proposed Ballot Language:**

Proposition #15: Shall the Charter be amended to update the procedure for amending the Charter to be consistent with current State and Federal law?

**Rationale for Change:**

The City is no longer required to receive preclearance from the United State Department of Justice for proposed amendments to the Charter. This change updates this section to reflect current State and Federal law.

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**Proposed Change #16: SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.**

**Current Charter Language:**

**SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.**

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of “yes” or “no” on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Freeport at an election to be held for that purpose on the 18th day of June, 1960. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Freeport as appears from the latest tax collector’s roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Freeport, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Texas Secretary of State and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

**Proposed Charter Language:**

[delete section in its entirety]

**Proposed Ballot Language:**

Proposition #16: Shall the Charter be amended to remove the obsolete section concerning the initial submission of the Charter to voters for original approval?

**Rationale for Change:**

This section is obsolete and no longer needed.



## City Council Agenda Item # 9

**Title:** Discussion and possible action regarding a Resolution of Censure against councilman Jeff Pena, for his actions immediately following the City Council meeting on November 7, 2022. Which lead to the complaint by the City Secretary of a hostile workplace.

**Date:** January 9, 2023

**From:** Councilman Cain, Mayor Bass

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**Recommendation:** Recommend approval of the Resolution

**Item Summary:** A written complaint was received by the City Manager on November 10, regarding verbal abuse that was claimed to create a hostile workplace. At the December 19th City Council meeting this complaint was discussed in length. Councilman Pena, instead of taking ownership of his actions that resulted in the complaint being filed, he tried to put this whole thing off as being a political smear campaign against him. Any complaint from a city employee toward a sitting councilmember should be looked into and taken seriously.

**Background Information:** A resolution of Censure is the only mechanism to formally address actions of misconduct by an elected official.

**Financial Impact:** None

**Supporting Documentation:** Resolution, Letter of Complaint.

**RESOLUTION NUMBER 2022-2770**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, CENSURING COUNCIL MEMBER JEFF PENA FOR COMMENTS MADE TO THE CITY SECRETARY; PROVIDING FOR INCORPORATION OF PREAMBLE AND AN EFFECTIVE DATE.**

**WHEREAS**, following the adjournment of the City Council meeting on November 7, 2022, Council Member Jeff Pena verbally attacked the City Secretary Betty Wells; and

**WHEREAS**, the verbal attack towards the City Secretary Betty Wells was witnessed by the Mayor and two other Council Members; and

**WHEREAS**, the City Secretary Betty Wells felt that Council Member Jeff Pena's use of profanity and aggressive behavior was an attack on her integrity, which led her to tears and caused further embarrassment; and

**WHEREAS**, the City Council finds that comments made by Council Member Jeff Pena to the City Secretary were inappropriate and warrant public censure;

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

**Section 1.** The facts and statements contained in the preamble are hereby found to be true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2.** The City Secretary Betty Wells filed a complaint on November 10<sup>th</sup>, 2022 against Council Member Pena for certain comments made by the Council Member to the City Secretary immediately following the November 7<sup>th</sup>, 2022 City Council meeting; such complaint is attached hereto as Exhibit A and incorporated herein for all purposes.

**Section 2.** The City Council hereby finds that the comments made by Council Member Pena were inappropriate and must be addressed by public censure.

**Section 3.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED, APPROVED AND ADOPTED** on this the \_\_\_\_ day of January 2023.

\_\_\_\_\_  
Brooks Bass, Mayor  
City of Freeport, Texas

ATTEST:

\_\_\_\_\_  
Betty Wells, City Secretary  
City of Freeport, Texas

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
David W. Olson, Interim City Attorney  
City of Freeport, Texas

**RESOLUTION NUMBER 2022-2770**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, CENSURING COUNCIL MEMBER JEFF PENA FOR COMMENTS MADE TO THE CITY SECRETARY; PROVIDING FOR INCORPORATION OF PREAMBLE AND AN EFFECTIVE DATE.**

**WHEREAS**, following the adjournment of the City Council meeting on November 7, 2022, Council Member Jeff Pena verbally attacked the City Secretary Betty Wells; and

**WHEREAS**, the verbal attack towards the City Secretary Betty Wells was witnessed by the Mayor and two other Council Members; and

**WHEREAS**, the City Secretary Betty Wells felt that Council Member Jeff Pena's use of profanity and aggressive behavior was an attack on her integrity, which led her to tears and caused further embarrassment; and

**WHEREAS**, the City Council finds that comments made by Council Member Jeff Pena to the City Secretary were inappropriate and warrant public censure;

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

**Section 1.** The facts and statements contained in the preamble are hereby found to be true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2.** The City Secretary Betty Wells filed a complaint on November 10<sup>th</sup>, 2022 against Council Member Pena for certain comments made by the Council Member to the City Secretary immediately following the November 7th, 2022 City Council meeting; such complaint is attached hereto as Exhibit A and incorporated herein for all purposes.

**Section 2.** The City Council hereby finds that the comments made by Council Member Pena were inappropriate and must be addressed by public censure.

**Section 3.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED, APPROVED AND ADOPTED** on this the \_\_\_\_ day of January 2023.

\_\_\_\_\_  
Brooks Bass, Mayor  
City of Freeport, Texas

ATTEST:

\_\_\_\_\_  
Betty Wells, City Secretary  
City of Freeport, Texas

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
David W. Olson, Interim City Attorney  
City of Freeport, Texas

Exhibit A

City Secretary Complaint

To: Tim Kelty, City Manager, Brooks Bass Mayor, City of Freeport

From: Betty Wells, City Secretary, City of Freeport

November 10, 2022

Re: Formal Complaint, Against Councilman Pena Ward A

Immediately following the adjournment of the meeting, on November 7, 2022, Councilman Pena became irate and started verbally attacking me without provocation.

During the council meeting Councilman Pena got flustered when he felt items were missing from his packet. Packets are given to each councilmember for each council meeting.

At the beginning of this altercation, I thought Councilman Pena was joking around with me, until he became angry and started cussing, and called me a liar.

It is my responsibility to provide all Councilmembers with the supporting documentation that is necessary for each council meeting. The information is emailed to each member of council the week before the meeting, and complete packet of information is provided in a three-ring binder at the start of each meeting.

The individual binders with their names on them, are collected at the end of each meeting for reuse, at following meetings. Early into Councilman Pena's term, he would take and keep his binder. Which required us to purchase a new binder each time. When told not to take the binder, he instructed me, if I was unwilling to purchase him a binder for each meeting, that I clip his packet together with dividers. This has been done since very early in his term. I would say approximately, about the third or fourth meeting of his term.

At the end of the November 7 meeting Councilman Pena called my work half ass. He was demeaning to me, and was disparaged my work. He said that " he did not ask for a half ass packet, but I get it every time". Calling it half assed and telling others close by "What do you expect....."

The verbal abuse, laced with profanity, escalated from that point, until he called me a liar and stormed out of council chambers.

The exchange was witnessed by Mayor Bass, and Councilman Cain. Even Councilman Muraira witnessed the exchange, and came to me apologizing on behalf of Councilman Pena for his behavior.

Councilman Pena's use of profanity, aggressiveness towards me, belittling me, and attacking my integrity in front of the public and other councilmembers had me in tears, which led to further embarrassment. This hostile workplace environment caused by Councilman Pena, cannot be allowed to continue.

Sincerely,

