

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, August 1, 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  
Councilman Troy Brimage Not present

Staff:  
Tim Kelty, City Manager  
Betty Wells, City Secretary  
David Olson, Interim City Attorney  
Cathy Ezell, Finance Director  
Kacey Roman, Building Official  
Clarisa Molina, Administrative Assistant  
Chris Motley, Freeport Fire Chief  
Lance Petty, Public Works Director  
Toby Cohen, IT Manager  
Danny Gillchriest Interim Police Chief  
Donna Fisher, Human Resource

Visitors:

Bob Casale	Melanie Oldham
Manning Rollerson	George Matamoros
Sam Reyna	Billy Toomer
Pam Dancy	Helen Hams
Martin Bronstein	Con McCleaster
Diane McCleaster	Greg Bisso
Nicole Mireles	Keith Johnson
Donna Rickard	Kenny Hayes
Karla Clark	Jared Barber (Freese & Nichols)
Ron Bachman	Carol Mitzger
Bob Petty	Doug McIntire
David Mitzger	Helen Harris
Mary & Steve Moore	Charlie Kopp
Jan Kopp	Steve & Wendy Krueger
Wade Cook	Margaret Backman
Wayne Gautreaux	Toni Capretta
Linda Mai	

Carol & Mark Parker  
Melinda Wilhelm  
Michelle Booth

Bob Brooks  
Michael Wilhelm

**Call to order.**

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

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Invocation and Pledge was led by Mayor Bass.

**CITIZENS' COMMENTS:**

Mayor Bass explained how the citizens comments work. He said Council is not allowed to answer questions or respond to the comments made by the citizens.

Manning Rollerson spoke to council about his beliefs in the Lord and Savior. He said he does not believe that council should be praying in the meetings. He said that Olson & Olson should not be sending him letters. Mr. Rollerson said there is a conflict of interest with this Law Firm. He spoke of the lawsuits he is bringing before the City. He said that Troy Brimage is violating the law. He said he sent the Environmental Study to Councilman Pena.

George Matamoros 1722 North Ave O, said his issue is the post on social media made by the Councilman for Ward A. Mr. Matamoros said the Councilman came before the BOA for his downtown properties. He said the BOA denied his appeal. He said this Councilman posted on social media the BOA was incompetent and implied politics were involved in denying his appeal. He said these boards are served by volunteers. With this Councilman going on social media and posting this kind of stuff, it will be hard to get citizens to want to volunteer. Mr. Matamoros said this Councilman shows bullying behavior when he served on the EDC and here on City Council. He said he should be held at a higher standard serving on the City Council, and he should be made to make a public apology.

Melanie Oldham spoke to council spoke of her Councilman in Ward A. She said she will not be bullied or discredited by him. She said he posted some ugly things about her. She said the Councilman posted she is a local politician who has run unsuccessful. Ms. Oldham said he made the comment that I am incapable of thinking for myself and to serve the public, and I should not be allowed to serve on any future or current boards. She said she is very disappointed in her Councilman.

Pam Dancy, South Front Street said she thinks everything has got off track. She believes this is the City's fault. She said an oath is an oath. You should be kind to your neighbors and to be honest. She said she does not blame all of this on Mr. Brimage. She thinks this is the City's fault. She said we will collect what needs to be collected. She said this is about honor. She said the people need to see the demand letter, and let's move forward.

Shonda Marshall 135 Brazos Landing, she said there is so much mistrust. She said the citizens do not trust the leadership. She said there is so much mistrust and disrespect between Councilmembers. She said God gave her a verse from 2 Chronicles 7:14. She spoke of the BOA meeting and how two citizens who do not get along came forward with support, and because of that she has hope for change.

## COUNCIL REGULAR AGENDA

**Public Hearing:** Public Hearing and consideration and possible action on an Ordinance of the City of Freeport, Texas, amending its Zoning Ordinance by approving a Planned Unit Development District of approximately 13.71 acres of land located at Sailfish Ave; amending the Official Zoning Map of the City to reflect the planned unit development zoning district to be known as PUD #2

Ron Backman 96 Dolphin Lane, spoke of living in Bridge Harbor for about eight years. He opposes this Industrial Project, he said he will move if it comes.

Greg Bisso, Mayor of Village of Surfside, said he hopes council will reconsider and not approve this rezoning. He said allowing this plant will be detrimental to these businesses in Surfside.

Donna Rickard, Business Manager for Surfside Marina. She opposes this Industrial Project, she said to please reconsider this ordinance. She said Surfside was just awarded a grant for \$1.5 Million to bring in more transient dockage which will bring in more people to our marinas.

Keith Johnson, 53 Marlin Lane is opposed to this Industrial Project. He said he has lived in Bridge Harbor for over 30 years. He said the citizens of Bridge Harbor did not receive notice of this.

Con McCleaster presented a slide show. He said he has been a resident for five years. Mr. McCleaster said he would not have built a home had he known an Industrial Project would be coming.

Helen Harris 123 Redfish, requested that council does not allow this PUD #2 to pass. She said she has been a resident of Bridge Harbor for fifteen years. She opposes this Industrial Project.

Karla Clark, 411 Sailfish # 104 she spoke of her concern of the entrance to Bridge Harbor, her concern of where this plant will be built. Ms. Clark opposes this Industrial Project.

Martin Bronstein 20-year resident of Bridge Harbor. He asked if there is another site in Freeport that can be used? He said growth will benefit more from residential homes. He opposes this Industrial Project.

Bob Petty, Councilman for Village of Surfside concerned about this project. He said it will not help real estate. He said he opposes this Industrial Project.

Doug McIntire 411 Sailfish, said this does not need to be approved. He said council needs to represent us. He opposes this project and he believes it needs further review.

Mr. Kelty read two emails one from, Anette Payne, 119 Redfish Lane, and Thomas Bassick. Both residents of Bridge Harbor. Both oppose this Industrial Project.

City Manager Tim Kelty presented to council an Ordinance that will change the zoning in this area from a W1, Waterfront Resort and Marina to an IN, Industrial. He said Kisuma America Inc., is proposing to invest \$40 Million in a plant and to employ 35 employees. The plant will purchase up to 500,000 gallons of water per day from the City of Freeport. This volume is currently available and can be delivered with the current water mains in place. The annual financial impact of this development would be about \$240,000 in additional general fund revenue and about \$1.5 million in revenue to the utility fund. Planning and Zoning does recommend this PUD#2. He Said the PUD places restriction on the development of the project to allow for this project specifically. Any development on the site would

require a Specific Use Permit be submitted and approved. The ordinance also requires all building façades facing Sailfish Avenue to be aesthetically attractive, with a modern and professional look. Finally, if the project does not proceed within 3 years the zoning will automatically revert to W-1 zoning.

Mr. Fertti with Kisuma America Inc., presented a slide show. He said they have been in business for more than 75 years. He said they produce magnesium salts. He said they do not produce petrochemicals, nor do they produce or use any hazard chemicals. He said the plant will require full compliance by the EPA and the FDA. Mr. Feretti said by their company's mission, they will add value to the community and protect the intercostal. This will be a \$40 million investment with 35 jobs created. He said we will partner with the City of Freeport for fresh water and this will generate more than \$1 million to the City utilities.

Mayor Bass asked how will the product be transported out. Mr. Feretti said there will be up to five trucks maximum a day that will transport the product. Mayor Bass asked if there will be any barge traffic. Mr. Feretti said no barge traffic. Mayor Bass asked what is the diameter of the intake and outtake pipes for sea water? Mr. Feretti said 4-6-inch pipes. He said one pipe takes in, and one pipe sends out.

Councilman Muraira said the pharmaceuticals is one of the cleanest materials made.

Councilman Cain asked if the 500,000 gallons of water is daily, or annually? Mr. Kelty said up to 500,000 gallons per day.

Mayor Bass asked if Freeport water system can handle this along with our City demand? City Manager Tim Kelty said yes, we contract for 2.4 million gallons of water a day with BWA. Kenny Heyes, Freeports BWA Board Representative said the City uses about 60% of that.

Councilman Pena said this was under wraps, and confidential and he understands the citizens' concerns. He asked Mr. Feretti if they were considering any other locations in the City for this project? Mr. Feretti said there was one. Councilman Pena asked if it was located near residential? Mr. Feretti said no, but there are issues with contamination on the other site that made it unsuitable. Councilman Pena asked about the location past the bridge, would this space qualify? Mr. Feretti said they have spent nearly 2 years on due diligence regarding the site including doing water quality testing and determined that the source of sea water meets their needs. If we move locations we would have to do everything all over again with the EPA and the FDA. Mr. Kelty said that Kisuma has said they are considering other locations along the Gulf Coast, and have said if this location does not work, they would look elsewhere.

Councilman Pena said he is concerned of safety and the quality of life for Bridge Harbor residents. Councilman Pena said he wants to make sure we are being responsible. Mr. Feretti said there are no safety issues, we have never been shut down, no plants have ever been fined for violations. Councilman Pena asked if there will be sales tax revenue? Mr. Kelty said he did not believe the project would generate sales tax revenue. Mr. Feretti said we do not just offer jobs, we offer careers.

Mayor Bass asked for the deadline to have this approved, Mr. Feretti said it has to be before closing on September 2. Mr. Feretti said a truck yard put in an offer that is interested in this property also. He said we want to be your responsible neighbor.

Public Hearing was closed at 8:03 PM.

Mayor Bass said he appreciates all the comments. He said he still has questions.

A motion was made by Mayor Bass, seconded by Councilman Cain, to table this until August 15 Council meeting.

Mayor Bass adjourned the meeting for a five-minute break at 8:05 PM.

Mayor Bass called the meeting back to order at 8:13 PM

### **PRESENTATION/ANNOUNCEMENTS:**

#### **Proposed Budget Presentation for Fiscal Year 2022-2023**

Finance Director Cathy Ezell presented the proposed Budget Presentation for the Fiscal Year 2022-2023. She said this budget is a working draft of the budget. She spoke on the General Fund Revenue, she said overall revenue is proposed to increase over FY21-22 budget by \$1.2 million. General Fund Expenditures Major Changes include COLA at 3.5%, and the increase of 5% in Health Insurance Coverage. She spoke on the General Fund, Capital Expenditures-Street and Drainage and Facilities & Grounds. She said the streets and drainage fund is estimated to have a fund balance of \$2.4 million at the end of FY22-23. The Facilities & Grounds CIP has a proposed transfer of \$996,095 for projects. She spoke on the General Fund Capital Expenditures-Equipment & Vehicles CIP. The amount proposed is \$1,081,000 for these projects. She discussed the Water/Sewer Fund. She talked about the 2020 CO Bond Fund, and the 2021 CO Bond Fund. Ms. Ezell said if this budget is adopted as it is, it will leave us \$621,000 available for projects next year from available fund balance. We will be left with a little over \$1 million in operating funds that can be used. Ms. Ezell spoke of the \$150,000 loan payment for the monies that were transferred to the water/sewer projects. Mayor Bass asked how many more \$150,000 payments are still needed? Ms. Ezell said we have four more years. Mr. Kelty spoke about the 9% increase Veolia is requesting. Ms. Ezell discussed the calendar she said August 15, 2022 will be the next Budget discussion along with a vote on a "Not to exceed Tax Rate" and setting a date for Public Hearing on Tax Rate and Budget. There will be a Public hearing on September 6, 2022 on the budget, and a potential vote to adopt Budget, along with a Tax Rate Public Hearing, and potential vote to adopt Tax Rate. She said the deadline to adopt the Budget is September 19, 2022.

Councilman Pena asked if we have two more meetings before the vote. Ms. Ezell said yes you can if you wait until September 19 or hold a special meeting between now and then.

Mayor Bass said he is inclined to hold a Special Meeting if it is necessary. He also said we need to really look at this budget. And we need to work hard on Veolia. He said 9% is way too much.

Councilman Pena said last year when we came to the end of the review process for the budget. He said he made a PowerPoint, he said it was late last year. He would like to make sure we are early so he can present this presentation.

### **CONSENT AGENDA**

Councilman Pena asked that item #5 be moved to regular session.

Consideration and possible action on the approval of City Council meeting minutes from July 18, 2022.

Consideration of approving various items and equipment for surplus and approve the sale of such items by auction.

Consideration and possible action approving Resolution No. 2022-2756 approving the recommendation of the Employee Benefits Trust in regard to the award of the Employee Health Insurance Contract

Consideration and possible action amending the authorization for the closure of 2<sup>nd</sup> Street at the Union Pacific Rail Crossing for construction work to the crossing allowing for the closure for up to 30 days with the same conditions that previously required.

A motion was made by Councilman Cain, seconded by Councilman Muraira to approve the consent agenda items #2, 3, 4, and 6. With all present voting "Aye" 4-0 council unanimously approved the Consent Agenda.

### **COUNCIL REGULAR AGENDA**

Consideration and possible action approving Resolution 2022-2757 appointing/re-appointing a Director to the BWA Board.

City Manager Tim Kelty presented to council Resolution 2022-2757 appointing/re-appointing a Director to the BWA Board. He said Mr. Hayes term expires in September 2022. He has served on this board for six years, and he does a good job. He said this is a two-year term.

A motion was made to approve the resolution by Mayor Bass, seconded by Councilman Cain. Discussion followed.

Councilman Pena asked if this was advertised? Mr. Kelty said it was not. Councilman Pena asked if this is a role as a liaison between BWA and the City? Mr. Kelty said yes. Councilman Pena asked Mr. Hayes what he thinks about the plant being in Bridge Harbor? Mr. Hayes said it is better than a trucking company.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved Resolution 2022-2757 appointing/re-appointing a Director to the BWA Board.

Consideration and possible action approving AFA Agreement with TXDOT for cooperative construction of the relocation of waterline in 1495 ROW.

City Manager Tim Kelty presented to council the approval of AFA Agreement with TXDOT for cooperative construction of the relocation of waterline in 1495 ROW. He said this is an agreement with TXDOT for the relocation of water pipe that is in the ROW. Staff recommends the approval of this agreement.

A motion was made to approve by Councilman Cain, seconded by Councilman Pena. With discussion that followed.

Councilman Pena asked who will utilize this water? City Manager said it is in the Ward A area. Councilman Pena asked if we will have outages from this? Jared Barber said there will be some outages, but not for long periods. Mayor Bass asked what are the requirements before you do a boil water notice? Jared Barber said as soon as the pressure drops below 20 PSI.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved the AFA Agreement with TXDOT for cooperative construction of the relocation of waterline in 1495 ROW.

Consideration and possible actions to approve Ordinance No. 2022-2671, closing and abandoning the remaining Division Street right of way between Front Street and the Brazos River and authorizing the sale of said property to Lucy Ware, owner of adjacent property located at 2 North Front Street.

City Manager Tim Kelty presented to council Ordinance No. 2022-2671, closing and abandoning the remaining Division Street right of way between Front Street and the Brazos River and authorizing the sale of said property to Lucy Ware, owner of adjacent property located at 2 North Front Street. He said the sale of this property to Mr. and Mrs. Ware was approved at a previous meeting, and they did accept the offer. We have to formally close and vacate this road in order to move forward with the sell. This ordinance being presented tonight will do this. Mayor Bass asked if Mr. and Mrs. Ware signed the acceptance letter? Mr. Kelty said yes.

Councilman Pena asked if we are using the language that was drafted by the previous City Attorney? Mr. Olson said yes. Mr. Olson said we will need to draft the Deed Without Warranty, with the language of the reservations and the reverted language as well. The price of the Division Street and the Water side of the property will be in the Deed Without Warranty as well.

A motion was made by Councilman Pena to approve the ordinance, seconded by Councilman Cain with all present voting "Aye" 4-0 council unanimously approved Ordinance No. 2022-2671, closing and abandoning the remaining Division Street right of way between Front Street and the Brazos River and authorizing the sale of said property to Lucy Ware, owner of adjacent property located at 2 North Front Street.

Consideration and possible action approving Hurricane Monitoring Contract.

Fire Chief Motley presented to council the request to approve Hurricane Monitoring Contracts. He said this went out for bid and we had five companies send bids. He said the staff's recommendation is Will O'Brien, to be the primary, and Roston as the secondary. He said he also asking that the Mayor have authorization to sign, once the contracts are ready, after review from Legal.

A motion was made to approve by Councilman Cain, seconded by Councilman Pena. With discussion that followed.

Councilman Pena asked about the cost involved. Chief Motley said there is no cost unless they are activated.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved the Hurricane Monitoring Contract.

Consideration and possible action of awarding contract for preliminary Architectural Design for Fire Station #1 renovations.

Fire Chief Chris Motley presented to council possible action of awarding contract for preliminary Architectural Design for Fire Station #1 renovation. He said this is already budgeted for this FY. He said we have outgrown the station. He said staff recommends the approval of this. The cost for this will be \$14,500. And this is just for the preliminary Architectural Design.

A motion was made by Councilman Cain, seconded by Councilman Pena with all present voting "Aye" 4-0 council unanimously approved awarding contract for preliminary Architectural Design for Fire Station #1 renovation.

Consideration and possible action approving Ordinance No. 2022-2669 approving the new Water/Sewer Rate.

Finance Director Cathy Ezell Ordinance No. 2022-2669 approving the new Water/Sewer Rate. She said BWA raised their rates 12.5%. If we do not raise our rates, the utility will go in the negative. Ms. Ezell said \$1.36 more per bill for 2000 gallons usage, and \$2.74 more per bill, for 5000 gallons usage.

Councilman Pena asked when this will go into effect? Ms. Ezell said it will be September 1, for the October bill. The average resident uses 5000 gallons per month.

A motion was made by Councilman Pena to approve the ordinance, seconded by Councilman Cain. With discussion that followed.

Pam Dancy asked how often BWA raise their rates? Cathy Ezell said BWA evaluates their rates on an annual basis.

Mayor Bass called the motion to a vote, with all present voting "Aye" 4-0 council unanimously approved Ordinance No. 2022-2669 as written, approving the new Water/Sewer Rate. She said BWA raised the rates 12.5%.

Consideration and possible action approving Ordinance No. 2022-2672, approving Ordinance setting Policy Agenda.

Mayor Bass tabled this item, seconded by Councilman Cain.

Consideration and possible action on amendment to the employee policy Manual regarding a press release/media relations policy.

Mayor Bass tabled this item, seconded by Councilman Cain.

**WORK SESSION:**

Mayor Bass asked Ms. Dancy if she purchased 108 North Ave A? Ms. Dancy said yes. Mayor Bass said this was his grandmothers house. He said the house color looks great, and his grandmother would be happy. Mayor Bass said this has been a good meeting, he said it has been responsible and responsive. He said there are certain things with being in public service, we have to follow state law. He said to function the city, we have to function as council. He told Ms. Marshall that she inspired him, he has always believed in hope.

Councilman Pena thanked Ms. Marshall and Ms. Dancy for their comments. He asked if the City is in receipt of the demand letter? Councilman Pena asked when will the demand letter be delivered? Mayor Bass said you are waiving the Attorney Client Privilege. Mr. Olson said he is not aware of the letter being delivered. Mr. Olson said he will get with Mr. Navarro and maybe he can get with Councilman Pena. Councilman Pena said he wears a hat as City Councilman but also, wears the same hat as the people on the other side of this podium. He said we are just looking for answers. He said he is just trying to get rid of the negative suspicion.



Councilman Cain gave a shout out to the first responders, he said there was a house fire on the corner of Dixie and 8<sup>th</sup> on Saturday. He said he was paying close attention to Chief Motley and his Crew. He said they were very professional with each other and the other cities. Chief Motley said he wanted to thank the other cities, Oyster Creek, Clute, Lake Jackson, Jones Creek, and Surfside. Councilman Cain said he wants to speak on the disclosure statements that are required from Council. He said his ended up on Facebook saying the Mayor is serving as his lawyer and this is a conflict of interest. Councilman Cain said he spoke with our previous legal counsel and he was advised this is not a conflict of interest. He said he also spoke with Mr. Olson and he advised, he does not see a conflict of interest. Councilman Cain said to show more transparency we are in the process of taking custody of three children, and Mayor Bass is serving as our attorney. We are not hiding anything.

Councilman Muraira said he has a citizen complaint at 1220 North Ave M and the softball fields. He said there is high grass in the ditch. He asked what is the process to hire a new Police Chief? Mr. Kelty said he is working closely with HR. He said we have 19 resumes so far. He said we will have a committee consisting of Chiefs of Police from Lake Jackson and Clute, Fire Chief Motley, Lieutenant Cory Brinkman, Mayor Bass and myself. He said we are hoping to start interviewing candidates by the first of September. Councilman Pena asked if there are any residents on the committee? Councilman Pena asked what is the norm in this process? Mr. Kelty said this is the norm; you advertise, have a steering committee typically including professional police representation. Councilman Muraira asked if council can see resumes? Mr. Kelty said these have to remain confidential. Mr. Olson said he does not mind, but we have to remember there is sensitive material in these. Mr. Kelty said there will be complete background check conducted, and his recommendation to council will be fully vetted before a recommendation is made.

Councilman Muraira asked if Councilmembers can contact the City Attorney? Mr. Olson said he can talk directly to council members if necessary, but the normal procedure is to go through the City Manager. Mr. Olson said there is nothing in law that prevents council from calling him directly.

Councilman Pena asked if we are still practicing PIR getting CC'd to council? Mr. Olson said he was not aware of this. Mr. Kelty said he has spoke with Mr. Olson about the PIR. Betty is handling PIR requests directly and only forwarding to legal counsel if there are any issues. If there are, then they are sent to the attorney for review. Mr. Olson said we are trying to streamline it at the staff level, so we act as more of support for her moving forward. Mr. Kelty said the process had sped up significantly with our ability to respond to the PIR's. Councilman Pena asked what do you allude that to? Mr. Kelty said less bureaucracy. Councilman Pena said he would still like to see this information. Mayor Bass said there was nothing voted upon in this regard. He said there was some confusion in regards to a PIR, so I suggested that Betty send PIRs to legal. Mayor Bass said he was never a fan of sending them to all of council. Mayor Bass said we have our advice from our current council. Mr. Olson said this creates hassle for the staff. Mr. Olson said he will meet with Councilman Pena.

Mayor Bass announced the generator is at the soccer fields. At it look very good.

Mr. Kelty announced that he will be going to the ICMA Conference in September. He also thanked Public Works for the generator. He said after the meeting Mr. Petty is going to meet the contractor and check out which lights need to be replaced. Mr. Kelty said the palm trees look amazing on the entry to Freeport. Mr. Kelty spoke about the low water pressure. He said the level of the tank was down, they will be leaving a pump running to prevent this from happening in the future.

Pam Dancy asked if the school is a possible New City Hall? Mayor Bass said we are trying to figure out what we are going to do about the City Hall


Update on reports / concerns from Department heads

**CLOSED SESSION:**

Adjourn

On a motion by Councilman Pena, seconded by Councilman Cain, with 4-0 vote, Mayor Bass adjourned the meeting at 9:43 P.M.

  
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Mayor, Brooks Bass  
City of Freeport, Texas

  
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City Secretary, Betty Wells  
City of Freeport, Texas