

State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Thursday March 3, 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

Staff:

- Tim Kelty, City Manager
- Betty Wells, City Secretary Via Facebook Live
- Cathy Ezell, Finance Director
- Chris Duncan, City Attorney
- Lance Petty, Public Works Director
- Chris Motley, Fire Chief
- Kacey Roman, Building Official
- Laura Cramer, Special Project Coordinator/GIS
- Ray Garivey, Freeport Police Chief

Visitors:

Raven Wuebker	Melanie Oldham
Tommy Pearson	Donna Hayes
Desiree Pearson	Sam Reyna
Manning Rollerson	Kenny Hayes
David McGinty	Sabrina Brimage
Nicole Mireles	DA, Tom Selleck
Ed Garcia	Mary Garcia
Mr. Scamanto	Willie Garcia
Keith Stumbaugh	Charles Zec, Attorney
Shonda Marshall	Sandra Barbree
Tim Sparkman	Robert Bacon

**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 City Manager Tim Kelty.

**CITIZENS' COMMENTS:**

## COUNCIL REGULAR AGENDA:

Mayor Bass said he wants to strongly encourage the audience to refrain from commenting, unless you are called upon. And for Council to refrain from any outburst. Mayor Bass announced the Brazoria County District Attorney, Tom Selleck, is joining us. As well as Attorney Charles Zech, of the Law Firm that the city has hired to handle the two investigations that are currently being conducted.

Mayor Bass said before the meeting he wants to say, it is important that we continue to do the business of the City, the appropriate way. He said the two words he has used many times is, "Public Trust". But there is continued strife all around us. He said all this does is deter us from our objectives. Which is to serve the citizens of our City. Mayor Bass asked "is it the intent of this council to proceed with this meeting"? Council answered "Yes Sir".

### Discuss and take possible action regarding Troy Brimage's position as a Reserve Police Officer in the City of Freeport.

Councilman Pena handed out a handout of an outline on the discussion. Mayor Bass said he does not understand the "Discuss and take possible action regarding Troy Brimage's position as a Reserve Police Officer in the City of Freeport". Mayor Bass said "I do not know what this means. Is it to promote, or remove Mr. Brimage from the Freeport Police Department as a Reserve?"

Councilman Pena made a Motion to remove Troy Brimage from the Freeport Police Department as a Reserve Officer, with a Second from Councilman Muraira. With discussion that followed.

Mayor Bass asked Councilman Pena about the information handout is this personal knowledge? Councilman Pena said this is of his knowledge. Councilman Pena said that there are the areas that he wanting to discuss on the handout. He said the first conduct allegation is "Lack of self-control". He said it has become a pattern for Councilman Brimage to lose self-control and throw violent temper tantrums, and disruptive behavior. Councilman Pena said the first occurrence happened in November 2021. Second conduct allegation is "Direct Insults to City Council". Councilman Pena said that Councilman Brimage hurled Political Insults to himself and Councilman Muraira, because they were requesting the Transparency Ordinance. Mayor Bass asked if this was discussed in Open or Closed Session? Councilman Pena said in Open Session. This allegation happened in November 2021. December 2021, hurled personal insults at council in the manner of "These Clowns". The same meeting it was said "I will get you Duncan get ready it is coming" February 2022 there were expletives to the City Attorney. The third conduct allegation in February 2022 is "Direct Threats to Councilman and City Attorney. Mayor Bass asked again if these allegations are from Open or Closed Session? Councilman Pena said as a blanket statement these are from Open Session, Mayor Bass said he remembers it differently. The conduct allegation "Direct Threats to Council and to Councilman, and the City Attorney. Councilman Pena said that Councilman Brimage said he would get payback for the investigation of the 380 Agreement, a verbal threat to Council and City Attorney, to Sleep with one eye opened, and verbal barbs "I know how to play the game, I am good at it, and I always win". Councilman Pena said this is a summary of all the toxicity of it all.

Councilman Muraira said it is troubling to see these kinds of outburst, he said they are true and we need to take some kind of action. Mayor Bass "what action would that be Councilman Muraira"? Councilman Muraira said "remove from the Police Force as a Reserve". Mayor Bass asked if Councilman Pena or Muraira had spoken with Chief Garivey, to ask about Councilman Brimage's conduct as a Peace Officer? Both Councilmen said "No".

Councilman Cain said he has concern about this, he has the upmost respect for Mr. Brimage, and what he has done for the City. He said that he appreciates his passion for the City. Councilman Cain said he has a bit of concern, of the way issues are handled by Mr. Brimage. He said his concern is in the role of a reserve officer, is should he be in a situation with confrontation with a citizen and they are being aggressive with him, how will he act in that situation. Councilman Cain said this is his concern. Mayor Bass asked Councilman Cain if he has checked with Chief Garivey in regards to his performance? Councilman Cain said "No Sir, I have not". Councilman Pena said that he would like to add that he did not pursue Chief Garivey, he said that he has seen first hand and he did not cross reference. He said this is a pattern, not a one-time incident.

Mayor Bass said that just because you get upset in one situation, does not mean you get upset in the other. When we get to the point of removing someone, that was approved by Council in June of 2020 to be on the reserve force, we need more that getting upset and yelling in council chambers. Councilman Pena said its not just about the getting upset and yelling, and no apology for it. It has also been personal attacks. He said he is just trying to push for transparency with the investigations. Mayor Bass asked if this has anything to do with the investigations? Councilman Pena said he can assure council this has nothing to do with the ongoing investigations. He said this comes from November and December, and the last couple of meetings.

Chief Garivey spoke of Mr. Brimage serving as a Reserve Officer for the City of Freeport Police Department. He said that Mr. Brimage has served for the last six or seven years as a reserve with no issues. He said he has served as a Peace Officer for years. Chief Garivey said he has never received a complaint on Mr. Brimage. He said he wears three different hats, a Businessman, Councilman and a Peace Officer. Chief Garivey said he has never seen him use his authority as a Peace Officer to do what he does up here. And if he ever does, that is when I will speak up. He said he has been a Peace Officer for 30 years and has never had a disciplinary action in his folder. Councilman Muraira asked Garivey if the temperament issue bothers you. Chief Garivey said he has never done this as a Peace Officer. Councilman Muraira said the outburst do not bother you? Chief Garivey said he has never done this with a citizen. Councilman Pena said officers are held to a higher standard, a different higher standard.

Manning Rollerson said he feels that being a Councilman and a Police Officer is a conflict of interest. He said his temperament in council will be seen on the streets.

A gentleman at 911 West 10 spoke to council of his concerns of the video he was shown and from watching the meetings on Facebook Live. He said there are different ways to speak. He said to him, if someone spoke to him the way Councilman Brimage did, he would speak to his supervisor. He said he could not believe Mr. Brimage called everyone clowns. He said he has heard good things said about Mr. Brimage.

Sandra Barbree said that it was a pleasure to sit with council when she served for six years. She said no council has a right to say what you can and cannot speak. She said your job is to the citizens, not fighting among yourselves. She said she sleeps better knowing that Mr. Brimage is a Reserve Officer for our city.

Nicole Mireles spoke in favor of Mr. Brimage. She said she also has had the pleasure of serving with Councilman Brimage. She said that he is very passionate of our city. Councilman Pena volunteers on the EDC, what is the difference? Mayor Bass asked Ms. Mireles if he has been to her home in the last week to eat dinner, and discuss this meeting with them? Ms. Mireles said no sir.

Sam Reyna spoke in favor of Mr. Brimage. He said the he and Mr. Brimage do not always agree, and that is ok. He is always friendly and has a passion for the City of Freeport. Mr. Reyna said the person who is abusing their power is Councilman Pena.

Kenny Hayes spoke in favor of Councilman Brimage. Mr. Hayes said that Councilman Brimage has been provoked. He said this man has done a great job in the City of Freeport. He said that he does not agree with removing Mr. Brimage from the Police Department.

Sabrina Brimage spoke in favor of Councilman Brimage. She said he serves as a volunteer in many different organizations. She said if he was a threat, these organizations would not reach out to him. Mrs. Brimage said he is a mentor for our school. If he was a threat he would not be asked to work with our youth. She said these outbursts are passion, and when he served as Mayor, there were never these kinds of issues.

Robert Bacon spoke in favor of Councilman Brimage. He said he has known Troy for many years, and he has always had a passion for serving. He said you can see this passion.

Tim Sparkman spoke in favor of Councilman Brimage. He said that he grew up with Troy, and he looks up to him still today. He said Troy has always volunteered for everything. He said that he wears a lot of hats, and loves everything he does, and he loves people. He said he believes this is crazy for even being discussed.

Ed Garcia spoke in favor of Councilman Brimage. He also said that he has been involved in the city for a very long time, and he has never seen a council act as this one is. He said a certain Councilman is playing dirty politics. Mr. Garcia said that Councilman Brimage has done a lot for this city.

Councilman Brimage asked that council not to remove him from his position with the Freeport Police Department. He said that he started with the Freeport Police Department in 1991, and he has a passion for this city. Councilman Brimage said that he worked in Narcotics and helped clean this city up, when it was a really rough place to be. Councilman Brimage said that he has been a peace officer for 30 years, in the City of Freeport and not one complaint. Councilman Brimage said he is passionate and he has been accused of many things sitting up here. He said he has been through this, three years ago. He said the way that it started, is the way this pattern is right now. He said that he is a Masters Peace Officers Licensed with TCOLE, this is the highest you can have with TCOLE. He said this item is politically motivated, because he, Councilmen Pena and Muraira do not see eye to eye on things for the City of Freeport. Councilman Brimage said he told Chris Duncan to get ready it is coming. He said that he did call him an expletive name because he smirks at him when he is asked a question, and because he looks at me and laughs, Councilman Brimage said, I did say this. He said that he did also ask him, how do you sleep at night, he said his words were twisted on this. Councilman Brimage said he did say I do know how to play the game, and I do mean it, and I play to win, I have a habit of winning in life. And you cannot fault me for this.

Councilman Pena said he appreciates the supporters. He said that he believes that they all believe Councilman Brimage is a man of his word. Councilman Pena said he believes that Councilman Brimage is a man of his word, and this is why he takes these threats very seriously. He said uncontrolled passion is violence. He said this is a pattern, and said this is a concern brought to him by residents.

Councilman Brimage said that he referred to the Councilmen as these clowns, is the same night that Councilman Pena referred to Pam Dancy as the Peanut Gallery.

Councilman Cain said he thinks it has been duly noted about the actions of Councilman Brimage, for the most people think this is unacceptable. Councilman Cain said these actions on council are when provoked. He said he hopes Councilman Brimage hears the citizens, and hears the council and tames it down some. He said he did not hear anyone say anything negative of Councilman Brimage in the police capacity.

Mayor Bass said there is a potential conflict with the charter. The Ordinance states the Police Chief can have 20 Reserve Officers, selected by the Police Chief and approved by Council. This was done in June of 2020. He said also according to the ordinance the removal of Reserve Officers is done by the Police Chief. Mayor Bass said that he did not believe that the City Council could do this removal. He spoke with City Attorney Chris Duncan, and Mr. Duncan informed him there is a Texas Attorney legal opinion.

City Attorney Chris Duncan said State Law governs the rules for Reserve Officers. City Council has to confirm by Resolution that Reserve Officers can serve, carry a weapon and perform as an officer. He said this does not say anything specific about the removal, if council can or cannot remove a Reserve Officer. He said it is a question if City Council can legally remove a Reserve Officer. Mr. Duncan recommended to go ahead with a Motion, and the vote, and then we can figure out the legal effect. Mr. Duncan said he also found Attorney General opinion JM386, concerns dual office holding and incompatibility. It says a City Councilman cannot work as a Reserve Officer. Once elected to City Council, the position of Reserve Officer is automatically prohibited. Mr. Duncan said he thinks the law is clear.

District Attorney Tom Selleck said that he has not reviewed the Texas Attorney Maddox opinion, and he does not know what General Paxton would rule. There have been several law changes since Attorney Maddox has been in office. He said he is familiar with Public Officials can't hold two offices, he said this is a constitutional issue. He said they have to waive the salary in one of these offices. He understands that the Reserve Officers are not paid in the City of Freeport. So, this is not an issue as far as being able to appoint the Reserve Officer. The Code of Ordinance speaks for this. Chief appoints and approved by Council. Chief removes the Reserves. Mr. Duncan is right; the vote may be a mute issue. An example is Randy Ryan, was a Reserve County Sheriff Captain and Mayor of Angleton. Mr. Duncan said there is a difference between dual office holding and incompatibility. You cannot be a boss and an employee. Since the Police Chief works under the council and sets the qualifications.

Mayor Bass asked Mr. Selleck if he thinks it is important to get an Attorney General opinion on this. Mr. Selleck said you can most defiantly request one.

Mayor Bass called the motion for a vote. With a vote of 2-2, motion failed. Mayor Bass and Councilman Cain voted "Ney". Councilman Brimage abstained.

#### **CLOSED SESSION:**

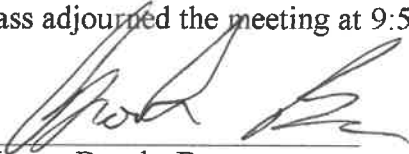
Open session was closed at 7:17 pm and Council entered into Executive Session

Executive Session regarding a.) (Personnel Matters) Review job performance issues of City Manager, in accordance with Vernon's Texas Government Code Annotated, Chapter 551, Sections 551.074.

Executive session was closed at 9:56 pm, and entered back into Regular Session.

Adjourn

On a motion by Councilman Pena, seconded by Councilman Cain, with all present voting "Aye", Mayor Bass adjourned the meeting at 9:56 P.M.



Mayor, Brooks Bass  
City of Freeport, Texas



City Secretary, Betty Wells  
City of Freeport, Texas