

**CITY OF FREEPORT  
ECONOMIC DEVELOPMENT CORPORATION**

**STATE OF TEXAS**

**COUNTY OF BRAZORIA**

**CITY OF FREEPORT**

**BE IT REMEMBERED** that the Economic Development Corporation of the City of Freeport met in a scheduled meeting Thursday, April 19, 2010 at the Freeport City Council chambers at 403 N. Brazosport Boulevard, for the purpose of considering the following agenda items.

Dan Tarver (President)  
Lila Diehl (Secretary)  
Jack Taylor  
William Rains

Clan Cameron (Vice-President)  
Sandra Wood-Wicke  
Larry Shaefer

OPEN MEETING

Dan Tarver called meeting to order at 6:00 pm, with all members in attendance.

ECONOMIC DEVELOPMENT CORPORATION REPORTS TO FREEPORT  
CITY COUNCIL AND PUBLIC ON THE FREEPORT MARINA PROJECT

DAN TARVER:

Thank You Mayor McDonald and thank you Freeport City council for having us here tonight to report to you on the status of the Freeport EDC and our marina project.

My name is Dan Tarver and I am the President of the Freeport Economic Development Corporation

The other members of the Freeport EDC board are:

Jack Taylor  
Lila Diehl  
Larry Shaefer  
Sandra Wood-Wicke  
William Rains  
and of course, Councilman Clan Cameron

It is important to mention that Mr. Nat Hickey and Mr. Bob Welch have been instrumental in helping this project move forward.

I am very pleased to announce that we are on the verge of opening the marina for business in late May to early June. We expect to open up two of the floating docks making available 52 wet slips for rental, and we have a list of prospective renters to help begin populating the facility. Immediately thereafter we expect to open the remaining three docks that will make available another 86 wet slips for rent.

The marina opening is the result of a lot of hard work and many hours dedicated to making the Freeport Municipal Marina a reality. A reality that was envisioned to be the engine of our downtown economic re-development.

In May our Marina will be host to the revival of the Blessing of the Fleet Ceremony, an event that in the past has been one of the highlights of our water activities in Freeport. There is a list of boats already signed up to participate in the event so it should be a very positive attribute to our town.

We have spoken to three yacht clubs who have made plans to visit the Freeport Marina in the next 90 days.

As most people are aware, The Freeport Marina project was estimated originally to cost the city \$6Million dollars, but unforeseen costs and the failure of the project developer Walker Royall to provide any financial assistance has caused the EDC to have to seek additional funding to complete the project.

To make up for this loss of funding, the Freeport EDC did two things. First they sold to the City of Freeport the Henderson tract of land, the land just to the west of the Marina Dry Stack Building for \$950,000.00, and most recently the Freeport EDC borrowed 1.75 million dollars to help get us to the point where we could begin to see a reward for our efforts, and I am pleased to say it is right around the corner.

Moving this project forward has not been smooth sailing. Walker Royall has demanded that the Freeport EDC sell him the Henderson tract of land for \$200,000.00. The EDC sold the tract to the City of Freeport to gain funding for the project, and subsequently, Mr. Royall has filed suit against the Freeport EDC again demanding that the property that cost the Freeport EDC over \$900,000.00 to acquire, be sold to him for \$200,000.00.

The attorneys for the Freeport EDC are responding to Mr. Royall's lawsuit.

I dare say that the citizens of Freeport would not approve of the EDC selling a piece of property for \$200,000.00 what cost us \$950,000.00 to acquire.

We have hired the law firm of Fossi and Jewell in Houston to represent the Freeport EDC in the lawsuit filed by Mr. Royall, and we have instructed our attorneys to file suit against Mr. Royall and his myriad of companies to recover the cost over runs of the marina above the 6 million dollars that was committed to in the beginning.

You have a copy of the Complaint that was filed today in that lawsuit. I think it sums up very well the scope of the marina project and the difficulties we have had to endure to move this project forward. Few people are aware of the facts surrounding this project and this complaint should give them an idea of what has really transpired since this project was proposed.

We believe that many people have been buffaloed into believing that this project was going to be the panacea for Freeport's economic woes. It is not.

Many people, including council members, former EDC board members and the general public have been hoodwinked by visions of grandeur.

One example is the 40 year contracts signed by former EDC members that favored the developer. It is this board's opinion that the agreements were being pushed on people by former city manager Ron Bottoms and former EDC Director Lee Cameron, without their full knowledge of what they were signing us up for.

Such was the case with Councilwoman Garcia and her signature on an agreement that was signed, but unread.

From time to time we have heard grumblings from some people that this board was not competent. We have heard from some people that this board needs to be replaced. Some of the people making these outlandish statements have never been to an EDC board meeting. But to give credit where credit is due, I did check the record and at least one of the people making this claim in public recently has been to a total of two EDC meetings. Both of them in the last 30 days.

But we have also heard from a larger number of people who have commended us for our actions and our dedication to making this project a reality. And they are typically people who have been to several meetings, not just one or two.

Clearly some of the bitter grumblings going on now days are purely for political reasons and not for the betterment of Freeport. So tonight I have encouraged the other members of the EDC board to report to council about their experiences.

FIRST I WOULD LIKE LILA DIEHL TO SPEAK:

My name is Lila Diehl and I am the Secretary for the Freeport EDC. I have been a member of the FEDC for almost 2 years.

In the time I have been part of the Economic Development Corporation, one of the most important things we have accomplished during my term is ridding the city of the Eminent Domain cases.

I feel very strongly about this so I would like to enlighten not only this council, but also the citizens of Freeport as to how much money was needlessly wasted, and for no reason what so ever.

First I want to talk about Trico Marine.

When we first came on board, the former EDC Director brought us up to date as to what was happening with the Trico Marine property at that time. The EDC Board was informed that the management of Trico was originally asked about selling their property to the EDC. The EDC Director told us that the response was "Not Really, but that they might sell it for \$600,000.00.

The former EDC Director, the City Manager and the EDC Board felt that this was too much money, so instead they offered him a deal that included three things.

First they would trade him the same amount of waterfront property that he had for another location on the river.

Second they would build him a facility "comparable" to the one he had on his property.

Third they would move him into the new facility with the use of City of Freeport workers.

This was all well and good; however there were never any of these specific conditions put in writing or any detailed contract drawn up.

With nothing in writing, work began, but there was never any stopping point specifically identified by a written agreement or a contract so money just kept being approved and spent by the former EDC Director. By the time that deal was completed and Trico was moved to their new facility, the cost to the tax payers of Freeport was a little over \$900,000.00.

Trico property had been on the Brazoria County Tax Roll for approximately \$58,000.00 to start with, but the cost to the tax payers of Freeport to acquire this property was almost \$1 million dollars because of bad management and poor decisions.

Next we have Western Shellfish, a subsidiary of Western Seafood.

Western Shellfish has 100 feet of property to the east of the Marina Dry Stack building that would be needed for Phase II of the Marina Project, but not Phase I which is the project we are attempting to complete right now.

With all of the mismanagement, overspending and bad blood created on this project so far, there is some doubt that the taxpayers of Freeport will be in favor of developing Phase II.

When we were first appointed, this EDC Board spoke with Mr. Wright Gore III, whose family and company own the Western Shellfish property, about the possibility of the Freeport EDC to purchase his property. It was disclosed at that time that the 100ft. of Western Shellfish property was being held as collateral in a loan and could not be sold until the loan is paid off.

Mr. Gore has informed the Board that once their property is cleared as collateral, that he would make it available for sale to the EDC. In the mean time, Mr. Gore has offered to lease the property to the EDC for a 40 year period to run concurrently with the 40 year leases the previous EDC board has signed with Walker Royall and his organization.

Furthermore, Mr. Gore has offered the EDC unrestricted use of the land up until such a time as the EDC leases or buys the land from Western Shellfish.

We have discussed an option whereby the EDC would trade land to Western Shellfish for the 100ft. of riverfront property, but that offer cannot be tendered without written consent from his financial lender, and it is my understanding that up to this time they have not agreed to do so.

Mr. Gore has been more than helpful with everything this board has done to get this project moving forward as the engine of our downtown economic re-development.

Now I would like to discuss the Eminent Domain Case against Western Seafood.

There never has been any sound logic on why the Freeport EDC filed Eminent Domain against Western Seafood's 300ft. of riverfront property on the west side of the Marina project. The only phrase I can think of to describe this action is greedy abuse of power.

One of the reasons this board decided to drop the Eminent Domain case against Western Seafood was because it was disclosed to us by Mr. Walker Royall that he and the project never really did need the Western Seafood property.

To settle the Eminent Domain case with Western Seafood, the FEDC agreed to pay a Court Ordered Judgement of almost \$500,000.00. This case was being appealed at the time, but there was no guarantee that the Freeport EDC would have won. What was guaranteed was that the attorneys for the Eminent Domain case would have continued to profit from the poor decision to abuse the power of Eminent Domain.

Lastly, the attorneys representing the City and the EDC, told the current EDC Board that they had advised the City leaders and the FEDC against using Eminent Domain in the first place. The attorneys reported to the FEDC that they had made it very clear that they thought using Eminent Domain in the manner in which it was planned was wrong.

Had the City leaders and the FEDC followed their attorney's advice, it would have saved taxpayers in Freeport over 1 million dollars, and not to mention all of the bad blood that it created in the mean time.

Lastly, but not the least is the Wanda Leonard Jones property.

Wanda Jones allowed the local chapter of the SPCA to operate a Thrift Shop out of her building that was situated on the only tract of land associated with the old Tarpon Inn Village that was not owned by Walker Royall.

This property was never needed or intended to be used for the Marina. Wanda Jones's property was attempted to be taken by Eminent Domain so that it could be used for "Upland Development" by Mr. Walker Royall.

Mrs. Jones offered to sell her property to the Freeport EDC for \$100,000.00. The FEDC countered with a \$90,000.00 offer. According to Ms. Jones, every time she made an offer to the FEDC Director, he would counter with something less.

In the end, to rid Freeport of the Eminent Domain abuse, this FEDC board purchased the Wanda Jones property for \$195,000.00 of which \$60,000.00 was her legal bills that she ran up in an attempt to fight Eminent Domain.

Failure of the EDC Director to negotiate in good faith with Ms. Jones caused the tax payers to pay \$95,000.00 more for the property than what they could have purchased it for in the beginning.

It is important to mention at this point, the Mr. Walker Royall has told the Freeport EDC that he does not intend to fulfill any expectations of Upland Development in Freeport.

In Summary:

None of the Eminent Domain cases that were filed ever needed to be filed.

All of the Eminent Domain cases could have all been handled in a more timely and civil manner.

All in all, Eminent Domain abuse cost the Taxpayers of Freeport close to a third (\$2,000,000.00) of the original \$6 million that was supposed to have been spent on the Marina.

If the Freeport EDC had the money that was spent on Eminent Domain abuse and the legal bills that supported it, the Freeport Marina project would have been completed by now and equally as important, on budget.

The citizens and taxpayers of Freeport need to come to the Council meetings, and the EDC meetings so they can learn first hand, like I did, what is going on in the City that they live in and more importantly, pay taxes in.

Right now we have good leadership, we have people who are trying to watch out for and care about where our money is going, we should be proud of them. We should be behind them and helping them.

I am proud to have been part of this group, we have worked very hard and have put in countless hours of our personal time, and that is time away from our families, because we live in this town and we care about Freeport's future.

What was sold to the citizens of Freeport as a 6 million dollar investment in the future of our city, has suffered numerous cost over runs and legal set backs because of poor decision making and bad choices, not the least of which was Eminent Domain abuse.

Now the price tag for this project is much more than \$6 million and I think it is important to the citizens and tax payers to understand the real reasons why.

Thank you for your time.

THANK YOU LILA.

NEXT I WOULD LIKE TO HEAR FROM LARRY SHAEFER:

When I was appointed in August 2009 to the FEDC, I began looking at files and asking questions. This resulted in the 3 phases of this Project.

#### TRUST - TRUST BUT VERIFY – VERIFY

Today, I question who will reimburse taxpayers for the mistakes, errors and omissions made in the various phases of the Project.

Now for the Projects:

#### 1. Dry Stack Building

- Intrusion on TxDOT Pine Street Bridge Easement  
DA Letter – Whose responsibility is it?
- Bunker Board error – Too Short – 1070 Pieces  
(Picture)
- Loss of Revenue from \_\_\_\_ to date
- Loss of Future revenue from 21 stalls @ \$218/mo for 38 years  
= \$2,087,568 dollars.
- No written reports or inspection diaries produced by Damian & Associates  
(Page 21 of contract)
- Fire Suppression plan was not developed by a NFPA Engineer  
- \$8000 charged by Damian & Associates  
(Page 27 of contract)

#### 2. Bulkheads

- No written reports or inspection diaries produced by Damian & Associates
- No Plans discovered – No response from Damian & Associates.  
We are requesting the plans and CD as specified in the contract.
- Causing delays for contractors on water & electrical due to erratic tie back locations.

### 3. Wet Slip Docks

- No written reports or inspection diaries produced by Damian & Associates
- Delay on dredge work cost an additional \$19,000.
- An Electrical power pedestal was found missing from Dock G – not reported by Damian & Associates
- Gang planks are too long  
(Picture)

### 4. Total Damian & Associates fees paid on the Marina Project.

- \$435,000 from FEDC
- \$25,000 from Mr. H. Walker Royall

So – Here we are today!

1. Wet slip docks finished (Except for Gang Plank issue)
2. Dock Electrical should be partially completed by May 15, 2010 and fully completed by May 30, 2010.
3. Parking and fencing should be complete by June 15, 2010.
4. Water should be done by May 15, 2010 as well as the Docks Fire suppression system.
5. A Security Camera System will be complete by May 1.
6. Security Lighting will be finished between May 31<sup>st</sup> and June 15, 2010 depending on special light fixture order arrival time.
7. Dry Stack Building completion is awaiting further plans and funds.

We have been fortunate in these final stages to have contractors like Shoremaster to provide excellent advice and co-operation. Our new Project Engineer – Baker & Lawson LP has jumped in and met our expectations on these several projects.

THANK YOU LARRY.

NEXT I WOULD LIKE TO FOR YOU TO HEAR FROM SANDRA WOOD-WICKE:

I just wanted to thank Yall', I been serving on the EDC for about seven months now. It has been a very big growing experience. I have learned a lot. Sitting back as a regular citizen, listening and hearing about what is going on is a totally different experience than actually getting up there and reading what is going on, looking at documentation, and then being put with this group of gentlemen and ladies I found out I had some preconceived ideas about how I felt about working with these people.

Mr. Shaefer has always brought documentation for everything he has found, he has brought his case and proved it, all you have to do is read it, it is there.

No slight on the former EDC, I have friends and family from there, I think their leadership was wrong. It only takes one bad apple to ruin it all, and I think somebody lead us wrong.

And now I think we have the right leadership in place, we've got people with positive attitudes. This little town is a family, and somebody came and tried to tear our family apart. And now we need to put it back together. And this Eminent Domain thing, I was for the marina, but I was never for Eminent Domain. I am so glad that the Gores had the money to fight it. I am so sorry it cost us so much to do it because it hurt their reputation and our reputation. Because, if they had come after me, I would have lost my building and I would be in jail.

It was handled very well by them, but there are Voices of the People, I have read letters about how sorry a job we are doing, about how sorry the marina is going, I have yet to see that person at any of the meetings, I have yet to see that person down there reading the documentation. And that is the people sitting at home, my parents included going "What are yall' doing?" Don't read that. Go down and find out. Don't believe those people. Those are the people that are keeping this stirred up. So if you want to get stirred up about the marina, don't do it from listening to other people and reading the paper. Care enough to get out there, come to the meetings and go down and read all of the documentation that is laying out there.

Thank You Sandra.

NEXT I WOULD LIKE FOR YOU TO HEAR FROM BILL RAINS:

I am going to be short and sweet, but everything that Larry and Dan and Lila and Sandra said is exactly the truth. This job from a construction standpoint is a very very small project. The person that the EDC director, they hired initially to look out for our interests did a very poor job and got paid 5 times worth more than the job this project would have required a professional contractor to pay.

And I would like to say that, and I am going to say, there are some of those people that worked on this board before some of us here were on it, and they did a good job some of them, and some of them are ethical and good people. Louis Jones, Ronald Theriot and some others, and they didn't know what was going on. Maybe they should, but they didn't.

But it is time for healing in this town, lets get on with the show and get it fixed.

Thank You Bill.

NEXT I WOULD LIKE FOR YOU TO HEAR FROM JACK TAYLOR:

As you all know, we volunteered for this job. While not elected or paid, we were appointed by Y'all, the city council of Freeport to perform the duties of the EDC Board which acts independently from the council. What started for us as a bi-weekly meeting has turned into meeting every week in order to finish our major project-the Freeport Municipal Marina. The members of this board spend extra hours each week doing the leg work getting the marina project up and running and getting boats in the marina so we can get some income generated.

We took our positions generally after the city council, with help from the voters, lost faith in the prior EDC. And rightfully so. Though this isn't the time to air out past problems, it has become clear money hasn't been spent prudently or properly. Contracts have been entered into without proper oversight and some were signed by people in authority without even reading the contracts. Some were sent with the instructions to just sign them. In fact, the contract we are now in the process of contesting is so different from the original one that gave the EDC and the city some control, it not only should have never been signed, it is hard to believe a municipal attorney would have approved it.

Part of a building was built on property we didn't even own. When the foundation was being formed, where were the people that should have seen it was wrong didn't even look. No one looked at the inside racks where the boat will be housed. There is no way a boat can rest in those cradles because the metal supports sit above the resting boards and will cut the bottom out of a boat.

There are lots of other mistakes we have found and are in the process of correcting, but where was the oversight of the past board and the people hired to oversee the project?

We have been given a job to complete and we are doing just that. This board is probably working better together than anyone would have ever imagined. And we are getting results. Sure there is a lot of work left to do. We are trying to get control of the marina and we are on the verge of getting vessels docked there--the desired result of this project.

My last statement, and this is a personal one. I have read interviews in the newspaper of candidates running so they can replace the EDC board. It seems their thought, or the directions they are receiving, is to replace the board. You asked us to do a job. This board isn't close to the one that started this project, and thank goodness for that. This board, for nearly a year, has worked to complete the project, despite political pressure from some of those in power and from some that were ousted by the voters last election. I know there is a faction that wants to control the city and stop the progress we have enjoyed these past few years. What I don't know, nor understand, is why. Why are some so intent on destroying progress. Freeport will always be my home. I have no vested interest, own any property in Freeport, but I lived in Freeport and grew up in Freeport and know that since 1945, Freeport will always be my home and I hate to sit idly by and watch it be destroyed by the politics of a few.

THANK YOU MR. TAYLOR.

I would like to say a few things about the recent controversy of the Freeport EDC dismissing Damian and Associates as our project engineers. I think it is important to set the record straight once and for all.

This board inherited the Dry Stack Building placement issue. The building was already in place on 22 and ½ feet of TXDoT easement when this board took over. We immediately began to work with Damian and Associates to find out the reason why the building was placed on 22 and ½ feet of Texas Department of Transportation Right of Way.

From the beginning, Damian and Associates has refused to admit any responsibility for their engineering work and placement of the building in the wrong location. Rather, they have accused former EDC Director Lee Cameron as being responsible for the mis-location.

I have attempted to speak with Mr. Rene Damian about the issue, but he has refused to speak with the EDC board about the easement violation and has directed the EDC to speak with Chief Executive Officer of their organization, who incidentally is his Dad.

I called the senior Mr. Damian to speak about the problem and he would not return my telephone calls.

I went by their office and ask to speak with him. He was not in so I left a message for him to contact me, but he did not.

Now up until recently, and a number of EDC board members can bear this out perhaps even Mr. Hickey, I, and Councilman Cameron, and Board member Bill Rains were probably the best friends the Damians had on the EDC board. We were willing to work with the Damians to resolve the building placement issue and had even gone to the point of offering to pay for half of the cost of rectifying the problem.

But when Rene failed to make two EDC board meetings in a row, particularly when we had told him of our efforts to accelerate the marina project, and their failure to want to negotiate a settlement for the misplacement of the Dry Stack Building, well, that was the end of our good faith and confidence in Damian and Associates and they were dismissed thereafter.

You have heard from Mr. Shaefer about the Dry Stack Bunker Board problem, again a construction error signed off on by the Damian organization.

The Freeport EDC is holding several invoices from Damian and Associates on our legal counsel's advice. These are payments for other work that was not done, or was not done well.

Needless to say, a great deal of the negative mis-information about the Freeport EDC that is being spread about our town right now has come directly from Damian and Associates.

Damian and Associates is even campaigning for one of the candidates that has made public statements that the EDC board should be replaced.

The Freeport EDC has hired the Engineering Firm of Baker and Lawson to take up where our previous engineering services left off.

Their customer service and their work has proven to be outstanding. Baker and Lawson has approached this project with zeal and enthusiasm and in just a few weeks, has accelerated the project to the point where we can say now, that our marina is just a few weeks away from opening to the public.

Baker and Lawson has responded positively and professionally to every request we have given them and their presentations to the EDC board are first class.

This board would like to recommend to Freeport City Council, that once the marina docks are open for business, that the City of Freeport operate the marina as a city department just like it does with the parks department or the Golf Course.

All revenues generated by the marina will then go directly to the city's operating budget as a start to repay the city's investment in the project.

Projections are that if the wet slips reach full capacity, then the city would experience approximately \$35 to \$40,000.00 in revenue per month.

After all of the floating docks are open to the public, the EDC will turn its attention to the Dry Stack Building problems, and we look forward to resolving them as quickly as possible, and then turning the Dry Stack Building over to the city to compliment the wet slip business.

Also, the Freeport EDC expects to continue to bring new business opportunities to our area just like we did with the Super S Grocery and the Renew Blue salt water desalination plant project.

This is the kind of work that the EDC should be accomplishing.

This board has been comprised completely of unpaid volunteers who have dedicated their time and energy to make the Freeport Marina a success. While this board typically meets two times a month, this board had met weekly since January to do everything possible to open the marina in time for the summer 2010 boating season.

When we terminated the EDC Director going on two years ago, we saved the EDC approximately \$100K a year on salary, benefits and expenses. It has been a great deal of hard work, but the progress of the marina has not suffered at the hands of volunteers.

We believe that at some point in the future, a professional EDC Director should be hired. Someone who has experience and is motivated to help fulfill the expectations of the words Economic Development.

In the mean time, we want to finish the marina first phase of wet slips, move on and finish the dry stack phase to fulfill the vision that the marina would become the engine of our downtown economic re-development, and we want to carry on with our efforts to bring new business opportunities to our home town.

I am very proud to have served with this board, and I am very proud of their dedication and performance. I am proud of the things we have accomplished, and look forward to accomplishing many more.

However, should a new council see fit to replace this board, we believe that the lawsuit against Walker Royall should proceed so that tax payers in Freeport will not bear the financial brunt of a previous council and previous EDC Boards sweetheart deal.

Thank You Mayor McDonald and Council for allowing us to make this report tonight, and I hope we have cleared the air of a lot of negative and false accusations.

ADJOURN

A motion to adjourn was made by Mr. Shaefer, seconded by Ms. Diehl and passed unanimously. Meeting was adjourned at 7:40 pm.

These minutes were read and approved this \_\_\_\_\_ day of April, 2010.

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Dan Tarver, President

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Attested to by Lila Diehl, Secretary