

**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, June 7, 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

Clan Cameron called the Joint Meeting with the City Council to order at 6:04 pm, with all members attending except Mr. Rains and Mr. Tarver. Mr. Tarver arrived late.

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

Mr. Fossi & Ms. Jewel made a presentation to the Council and to the Citizens of Freeport on the importance of the lawsuits, and the importance of keeping the lawsuits. They wanted the taxpayers of Freeport to know that this is the only way to recover the money that has been spent on the Marina. Mr. Walker Royal is responsible for any amount over the original six million that was to be spent on the Marina, and the price right now is about ten million, and by the time the Marina is finished could go as high as 11.5 million. If the lawsuits are dropped the total 11.5 million dollar bill will fall on the shoulders of the taxpayers of Freeport, who should not be responsible for that amount of money.

The second lawsuit is against Damian & Associates who are responsible for the Dry Stack Building being placed on the Highway Easement, and for the bunker boards having been made wrong and will damage any boats that are placed on them. Therefore, the Dry Stack Building will have to be moved or shortened, and the bunker boards will have to be redone. Damian & Associates were the Engineering Firm responsible for the job on the Dry Stack Building and who approved to have the building placed on the Highway Easement, and approved

for the contractor to be paid for the bunker boards. The money it will take to move the building and to rework the bunker boards should also not be the responsibility of the taxpayers and citizens of Freeport, but on the Company who was contractually responsible for inspecting and approving the job.

If either of these lawsuits are dropped, the the Citizens and taxpayers of the City of Freeport will be responsible for not only the original 6 million dollars the Marina was supposed to have cost, but also the almost 5.5 million dollars overage, which Walker Royall should pay, plus the money it will take to move or shorten the Dry Stack Building, which the Engineering firm of Damian & Associates should pay.

Dan Tarver reported to city council that he thought it was important to keep the lawsuits in place against Walker Royall and Damian and Associates. He stated that in a recent visit by Walker Royall, he told a group that included Mayor McDonald, City Manager Jeff Pynes, City Finance Director Bob Welch, Nat Hickey and Mr. Tarver that he did not have any money, but even if he did, he would not give the EDC one penny for the marina.

Mr. Tarver told the council that he pleaded and almost begged Mr. Royall to work with the EDC to find a middle of the road solution but he said Mr. Royall refused.

Mr. Tarver looked at Mr. Hickey in the audience and asked him if that was the truth and Mr. Hickey responded yes.

John Stanford in the audience suggested that the Freeport EDC should not have negotiated a settlement with the Gores.

Dan Tarver responded that the Freeport EDC never did negotiate with the Gores, but what the FEDC did was agree to drop the Eminent Domain lawsuit against Western Seafood and Western Shellfish and would pay a court ordered judgment of almost \$500,000.00. This money was already deposited in the court registry and was not paid out from the Freeport EDC budget. He said this was done after conferring with the previous EDC lawyers Olsen and Olsen. He reported that Mr. John Hightower, lead attorney for Olsen and Olsen came to the Freeport EDC meeting and told the EDC board that he had warned the Freeport City Council and the then current Freeport EDC board that using Eminent Domain against Western Seafood, Western Shellfish, Wanda Leonard Jones and Trico Marine would be a very bad decision, and he said that he also warned them that it would not turn out good.

Mr. Phillips responded that it would have cost nothing for the Freeport EDC to continue the appeal against the court judgment against the city and the EDC.

Mr. Tarver said that it was not a sure thing that the appeal was not costing anything because the EDC was paying monthly bills to Olsen and Olsen at the time they decided to drop the eminent domain lawsuits.

Mr. Tarver reported that Mr. Hightower, an attorney for the law firm of Olsen and Olsen had told the Freeport EDC board in a meeting that the appeal was not a sure thing and it was possible that the Freeport EDC could loose again.

Mr. Tarver told the council that Mr. Hightower had offered to come speak to the EDC for free, but submitted a bill to the EDC for around \$3,000.00 for coming to speak. Mr. Tarver said that when pressed on the bill, Mr. Hightower decided to drop the charges.

Mr. Tarver said the Freeport EDC was hemorrhaging money to Olsen and Olsen at that time and it was time for that and the eminent domain lawsuits to come to an end as it was a very divisive wedge issue in the community that was costing the EDC money every month.

Mr. Phillips stated that the Freeport EDC did not have the authority to drop the lawsuits in the first place.

Mr. Tarver responded that Mr. Phillips was wrong, and that he had checked with the city attorney and was told that the Freeport EDC operated autonomously from the Freeport City Council and that the Freeport EDC did have the authority to drop the lawsuit.

EDC member Lila Diehl pointed out to city council that Eminent Domain should never have been used in the first place because the city and the EDC's own legal counsel had warned against it, and that the land that was attempted to be taken by eminent domain, was never needed for the marina project in the first place.

Mr. Phillips angrily responded saying that the Freeport EDC was wrong to settle the lawsuits and that he had personally telephoned Dan Tarver to tell him so.

Dan Tarver reiterated again that the lawsuits were filed because of eminent domain cases that the city and EDC's own legal counsel had advised against in the first place and should never have happened.

Joyce Adkins in the audience asked Mr. Phillips if he was talking with Walker Royall.

Mr. Phillips responded that he has a public telephone, and that he speaks with Walker Royall regularly every week.

Clan Cameron said that he thought it was improper for a city council member to be speaking with Mr. Royall when the EDC had a lawsuit filed against him and that it went against the advice of the EDC's legal counsel.

Eric Hays in the audience asked the City Council if he could see a show of hands of which council members would support the lawsuits and which ones would not. None of the council members would respond to his request.

Mr. Tarver said that if the Freeport EDC or the City Council drops the lawsuits against Walker Royall or Damian and Associates, that they will be taking the financial burden off of those responsible, and will be placing it on the backs of the Freeport tax payers.

ADJOURN

A motion to adjourn was made by Mr. Taylor, it was seconded by Mr. Tarver and passed unanimously. The meeting was adjourned at 8:45 pm.

These minutes were read and approved this _____ day of July, 2010.

James Barnett, President

Attested to by Lila Diehl, Secretary