

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 regular meeting Thursday, October 16<sup>th</sup>, 2008, at the Freeport City Council chambers at 1211 Brazosport boulevard for the purpose of considering the following agenda items.

Dan Tarver – President  
Clan Cameron – Vice-President  
Lila Diehl – Secretary  
Gilbert Cuellar  
William Rains  
Bobby Jo Casale  
Johnny McQuaig

Visitors observed, but not recorded:

Cele Damian, Rene Damian, Tobey Davenport, Wright Gore III, Eric Hayes, Louis Jones, Lila Lloyd, Larry McDonald, Larry Shaefer, Judy Shaefer, Patrick Riley, Melanie Oldham, Nat Hickey, Joyce Adkins.

#### OPEN MEETING

Dan Tarver opened the meeting at 6:05pm.

#### CONSIDER APPROVAL OF THE MINUTES OF THE 10/2/2008 MEETING

The minutes from the meeting of 10/2/2004 were not available to the group so this item was postponed till the next meeting scheduled for 10/30/2008.

#### CITIZENS COMMENTS

Tobey Davenport reported that he was told that the local Kroger store in Freeport had been damaged to the point that it was not expected to re-open, and he suggested that the council communicate with another grocery store chain about opening a store in Freeport to replace Kroger.

Melanie Oldham reported her concerns that the marina project was being impeded by Gore family interests and that she had personally contacted the Army Corp or Engineers to inquire about the approval of the Marina Wet Slip construction.

CONSIDER APPROVAL OF EXPENDITURES

\$26,550.00 – APEX METAL SYSTEMS – SECOND TRICO BUILDING

\$36,597.00 – FORBES CONSTRUCTION (PVC SHEET WALL)

\$ 4,221.23 – DAMIAN ASSOCIATES – TRICO RELOCATION

\$ 7,673.82 – DAMIAN ASSOCIATES – MARINA DOCKS AND DREDGING

\$ 3,232.72 – DAMIAN ASSOCIATES – SURVEY CREW IN PREP OF DREDGING

After an explanation of the submitted expenditures was presented by Rene Damian of Damian and Associates, a motion to approve the expenditures was made by Bobby Jo Casale and seconded by Bill Rains. The motion carried unanimously.

PRESENTATION BY CHRIS MOTLEY – FREEPORT FIRE MARSHALL  
REGARDING FIRE SUPPRESSION REQUIREMENTS FOR FREEPORT MARINA.

Chris Motley presented information regarding the state requirements for a fire suppression system in the marina dry stack storage facility. He indicated that he felt that the fire department's concerns for proper fire fighting solution had been ignored by the former EDC director and that he was now working with Rene Damian for a cost effective, suitable fire suppression system that could be recommended to the EDC at a later date.

A motion was made by Johnny McQuaig that Mr. Damian prepare information for a bid to be submitted for approval by the EDC at a later date that would satisfy fire safety mandates. The motion was seconded by Clan Cameron. The motion carried unanimously.

PRESENTATION BY NAT HICKEY REGARDING THE STATUS OF EDC  
CONTRACTS PERTAINING TO THE MARINA.

Mr. Nat Hickey presented information regarding contracts with Briarwood and Freeport Marina LP. Mr. Hickey reported that he was asked to research the agreements at the request of EDC President Dan Tarver because of invoices that had been received by the City of Freeport as a result of the Marina project that EDC board members and other city officials were unaware of.

The previous EDC director had not informed the new EDC board about the contractual agreements that had been enacted by former EDC president John Smith.

Through the course of Mr. Hickey's research, it was discovered that at least 5 pieces of real estate that had been transferred to Freeport Marina LP by the former EDC board had been done so improperly and subsequently there was a break in the title chain.

Former EDC board member Louis Jones was asked by EDC President Dan Tarver if he was aware of the improper land transfers and Mr. Jones said that he was not.

Mr. Hickey informed the EDC board that the properties in question did not belong to the EDC when the titles were improperly transferred, rather they belonged to the City of Freeport and as a result, a legal opinion as to what options the EDC had was recommended.

CONSIDER SETTING ADVERTISEMENT DATES AND BID OPENING DATES FOR MARINA WET SLIP CONSTRUCTION.

A discussion was held regarding advertisement and setting a bid opening date for wet slip construction. Dan Tarver informed the board that in the most recent conversation with the developer Walker Royall, that Mr. Royall had indicated a preference for fixed slips versus floating slips that had previously been discussed. Dan Tarver went on to say that he, Nat Hickey, Rene Damian and acting city manager Mary Stotler had reviewed drawing submitted to the Corp of Engineers for the marina project to determine if there was a conflict of right of way navigation where the piers approached the Old Brazos River navigation channel and the groups determination was that there did not appear to be a conflict in the application. Dan Tarver suggested that the EDC move forward with the bids.

Mr. Wright Gore III spoke to the group and informed the EDC board that there was a conflict of navigational rights, and he asked the EDC to postpone the bid process long enough for him to meet with board members to validate his concerns.

Dan Tarver asked Mr. Gore if he would be acceptable to allowing the bid process to move forward with the condition that if a navigational dispute was proved to be valid, the EDC would consider reducing the length of the slips at that time. Mr. Gore replied that if the bidding process were to move forward, his legal advisors recommended a law suit to stop the bidding process and he did not want to do that. Mr. Gore asked that the bidding process be postponed two more weeks to allow him to make his case.

Mr. Bill Rains asked Mr. Gore if at some point it is proven that there is no conflict, would that satisfy Mr. Gore to the point that Mr. Gore would not proceed with legal action and Mr. Gore said he would comply with an engineering decision on the conflict. Mr. Gore assured the EDC board that his position was not "My way or the highway".

Dan Tarver pointed out to the board that another postponement would jeopardize a goal of completing the marina by March 1<sup>st</sup>, 2009. Board members Clan Cameron and Bill Rains indicated that the scheduled completion date was less important to them than making sure of navigational safety for all parties involved.

A motion was made to postpone the bidding process till next EDC meeting scheduled for the 30<sup>th</sup> of October by Bill Rains and seconded by Johnny McQuaig. The motion was approved by all EDC members with the exception of Dan Tarver who abstained.

At this point, the meeting took a 20 minute break.

### CONSIDER EROSION CONTROL REQUIREMENTS FOR LEVEE AREA AROUND TRICO MARINE.

Rene Damian presented information to the EDC board that erosion control along the street side of the new Trico facility was required by the Velasco Drainage District. He submitted a price estimate from Matula and Matula Construction, Inc. that would provide labor and materials to install 5 erosion protection areas and add road material to the west ramp over the levee at an estimated price of \$3,500.00.

A motion was made by Clan Cameron to accept the estimate and begin work and seconded by Bill Rains. The motion carried unanimously.

### ENGINEER'S REPORT

Rene Damian reported that electricity had still not been connected to the new Trico facility which inhibited further inside building completion.

### BOARD OF DIRECTORS COMMENTS

No comments from the Board of Directors.

### EXECUTIVE SESSION – SECTION 551.072

Deliberations concerning the purchase, exchange, lease or value of real property when deliberation in an open meeting might have a detrimental affect on the position of the Board of Directors in negotiations with a third person, to-wit: Trico

Executive session began at 8:45pm and concluded at 9:00pm.

### ACTION TO BE TAKEN AS A RESULT OF EXECUTIVE SESSION ITEM #11, IF ANY

A motion was made by Bill Rains to conclude the Trico Marine project with an offer to swap a small section of land bordering the new Trico facility along with a 6 ft. high security fence in return for dismissing removing of underwater obstacles and moving Trico marine to their new location, seconded by Lila Diehl. The motion carried unanimously.

### ADJOURN

The meeting was adjourned at 9:07pm.