

STATE OF TEXAS

COUNTY OF BRAZORIA

CITY OF FREEPORT

BE IT REMEMBERED, that the City of Freeport, met in a Special Meeting, Thursday, August 10, 2006, 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, for the purpose of considering the following agenda items:

City Council: Jim Phillips
Clan A. Cameron
Jim Saccomanno
John Smith, III
Norma M. Garcia

Staff: Ron Bottoms, City Manager
Delia Muñoz, City Secretary
Wallace Shaw, City Attorney
Gary Beverly, Finance Director
Larry Fansher, Public Works Director
Doug Caffey, Building Inspector
Mary Stotler, Main Street Director
Nat Hickey, Property Manager

Visitors: Debbie McQuaig Larry McDonald
Helen McQuaig Rosa McDonald
John McQuaig Loren Smith
Helen Murrell John Hightower
Cathy Williams Joaquin Damian
Joyce Adkins Beverly E. Nixon
Jim Adkins Roddy Mohler
Angel Kent Doris Cats
Nancy Woodrow

Call to Order.

Mayor Phillips called the meeting to order at 6:00 pm.

Invocation.

Mr. Shaw offered the invocation. Mayor Phillips led the Pledge of Allegiance.

Consideration of the approval of accepting a referendum petition calling for an initiative within the city limits of the City of Freeport, Texas on the Prohibition of Eminent Domain for Private Business, and authorize further action thereon, if any.

On a motion by Councilman Cameron, seconded by Councilwoman Garcia, with all present voting "aye", Council unanimously approved to accept a referendum petition from the City Secretary.

Consideration of the approval of accepting a referendum petition calling for an initiative within the city Limits of the City of Freeport, Texas on the Prohibition of the Issuance of Loans of Public Funds to Private Business, and authorize further action thereon, if any.

On a motion by Councilman Cameron, seconded by Councilman Smith, with all present voting "aye", Council unanimously approved to accept the petition from the City Secretary.

Mayor Phillips closed the open session and opened the executive session at 6:05 p.m.

Executive Session:

A. Section 551.071 Government Code

Consultation with the City Attorney concerning pending or contemplated litigation, settlement offers or other matters in which his duty to the City Council under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Government Code, to wit:

- (1) Regarding referendum petition submitted regarding a petition on Prohibition of Eminent Domain for Private Business.
- (2) Regarding referendum petition submitted regarding a petition on issuance of Loans of Public Funds to private business.
- (3) Marina

Mayor Phillips reconvened the open session at 7:52 p.m.

Consideration of the approval of accepting a referendum petition calling for an initiative within the city limits of the City of Freeport, Texas on the Prohibition of Eminent Domain for Private Business, and authorize further action thereon, if any.

Mr. Hightower explained how this item by its very nature is not subject to an initiative or referendum. It's framed as an amendment to the City's zoning ordinance and the courts have said that you cannot initiate or refer zoning ordinance. Another problem is that the City Charter grants the City the power of eminent domain. An ordinance cannot be passed that violates the City Charter. If adopted it would not be valid.

On a motion by Councilman Saccomanno, seconded by Councilman Smith, with all present voting 4 to 1, Council approved Mr. Hightower's recommendation to seek opinions from the courts. Councilman Cameron opposed.

Consideration of the approval of accepting a referendum petition calling for an initiative within the city Limits of the City of Freeport, Texas on the Prohibition of the Issuance of Loans of Public Funds to Private Business, and authorize further action thereon, if any.

Mr. Hightower explained that if this was adopted, either by Council or by vote of the people, it would, in his opinion, be invalid because, like the other ordinance amending the zoning ordinance, it has been preempted by Chapter 380 of the Local Government Code. However, unlike zoning, he was not aware of any appellate court cases recognizing this preemption. Thus, because of other appellate court cases requiring either adoption of a requested ordinance or first submitting it to a vote of the people in the absence of a recognized preemption, he advised the City Council to either adopt the requested ordinance or submit it to a vote. Either way, its validity could be tested later.

Mr. Bottoms reminded the City Council that an initiative election would cost the City approximately \$5,000.00.

On a motion by Councilman Cameron, seconded by Councilman Saccomanno, with all present voting "aye", Council unanimously approved to reagenda this item on the Prohibition of the Issuance of Loans of Public to Private Business for August 21, 2006.

Adjourn

On a motion by Councilman Smith, seconded by Councilman Saccomanno, with all present voting “aye”, the meeting was adjourned at 8:00 p.m.

Attest:

Delia Munoz
City Secretary

James W. Phillips
Mayor