

CITY OF FREEPORT
September 30, 2015 Special Council Meeting Minutes

I. Meeting Opened

The September 30, 2015 Special Council Meeting was opened by Mayor Russ Barley at 6:15 p.m. The meeting was held in Council Chambers of the Freeport City Hall.

Council members present: Councilman Eddie Farris, Councilwoman Kasey Cuchens, Councilwoman Janice McLean, Mayor Russ Barley, Councilwoman Elizabeth Brannon and Councilwoman Jennifer Laird.

Staff present: City Attorneys Clayton Adkinson and Clay Adkinson, City Clerk Gary Mattison and City Planner Latilda Hughes-Neel.

II. Invocation & Pledge

The Invocation was given by Councilman Farris, followed by the Pledge of Allegiance to the American Flag.

III. 2015-2016 Final Budget Hearing

City Planner Latilda Hughes-Neel presented the final Tentative Budget with support documentation (attached) to the Council.

Council Action: Councilwoman Cuchens motioned to adopt Resolution 2015-11 adopting a Millage Rate of 4.702, which is greater than the roll-back rate by 5.1%. Councilwoman Laird seconded the motion. Four (4) ayes: Farris, Cuchens, McLean and Laird. One (1) nay: Brannon. Motion carried.

Council Action: Councilwoman Cuchens motioned to approve the proposed 2015-2016 Budget at \$4,754,038. Councilman Farris seconded the motion. Four (4) ayes: Farris, Cuchens, McLean and Laird. One (1) nay: Brannon. Motion carried.

Council Action: Councilwoman Cuchens motioned to adopt Resolution 2015-12 which sets the 2015-2016 Budget at \$4,754.038, which is 16.2 % more than the 2014-2015 Budget. Councilwoman McLean seconded the motion. Four (4) ayes: Farris, Cuchens, McLean and Laird. One (1) nay: Brannon. Motion carried.

IV. City Attorney/Confirmation of Council Direction on Impact Fee Policies/Ordinance

City Attorney Clayton Adkinson addressed the Council.

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Attorney Adkinson explained the difference between tap fees and impact fees. Adkinson explained that impact fees are governed by statute and have to pass a Nexus test. Adkinson reminded the Council that approximately six months ago, the city engineer was tasked with submitting proposals to conduct an impact fee/rate study. Adkinson stated that language governing the transfer of tap/impact fees could be addressed as part of the study.

Jay Odom addressed the Council, stating that other cities in the State of Florida allow transfers of tap/impact fees. Odom spoke to his personal situation where he bought a development and reduced it from 12 residential units to 3 residential lots. He wants to transfer the balance of tap/impact fees to the Hammock Bay development. Both are inside the City.

Attorney Adkinson stated that yes it can be done, but will have to be built into the City's tap/impact fee ordinance. The city engineer would have to determine if the impacts are in the same area. When new development comes in, current fees would govern. It is possible to adopt policy to allow transfers. The revised ordinance would have to be adopted after the Rate Study is complete. Adkinson said he would defer to the city engineer to create a re-capture policy. Adkinson stated that if the rate study shows an increase in fees is warranted, the Council may want to consider a dollar to dollar match transfer.

Adkinson stated that the impact fee ordinance must be based on a valid impact fee study. And the Council can't change anything until an engineered rate study is done and a revised ordinance is prepared for adoption.

Councilwoman Cuchens remarked that the Council can't do anything until the rate study is done; the Council needs to move forward with the rate study by the city engineer and task the city attorney with drawing up the ordinance.

Attorney Adkinson stated that a draft template ordinance is ready; the engineered rate study has to identify unique local features.

Jay Odom stated that not having the ability to transfer tap and impact fees forces development to remain as is rather than downsizing to something that will be more compatible and be more to the City's liking.

Councilwoman Cuchens stated that she was concerned because that this meeting is the first time in all the discussion the Council has had regarding the rate study being done that the Council has been informed that an engineered rate study is required before they can change anything.

Jay Odom requested that collection fees also be addressed.

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Attorney Adkinson suggested that the Council may want to look at uniform rates across the board instead of in-city and outside-of- city rates.

City Planner Hughes-Neel stated she would research when and if the rate study had been authorized previously.

V. City Attorney/Discussion of Chapter 112-Florida Statutes

City Attorney Clay Adkinson addressed the Council pertaining to Chapter 112, Section 300 Code of Ethics/Florida Statutes.

- 112.313 Standards of Conduct for Public Officials; mayor, council, city clerk
- Prohibition on receiving gifts
- Unauthorized compensation to oneself, one's spouse or children
- Not prohibited from voting on budgetary issues but can't vote on personal salary
- Disclosure laws, what must be disclosed
- For any ethical issue; contact your attorney; beyond your attorney, the Commission on Ethics can offer formal or informal opinions; their opinion can be requested.
- Your personal business cannot do business in any way with the local government agency you serve on
- 112.303 Status level conflicts
- 112.3143 Voting Conflicts; abstaining/recusals: cannot be silent; must address up front
- Exemptions: sealed bids, rotational consultants, legal advertising in local circulation paper, utility companies such as electric, gas; there can possible be an exception for niches businesses; if your company is the only one in town offering your particular service; ask your attorney first.
- There is an exception for declared emergency situations.
- The law is not all common sense; tell your attorney first and get an opinion up front; reduce the City's liability by asking before acting.
- More on 3143/voting conflicts; special personal gain or loss to you, your family or business associates. You cannot abstain without reason. All recusals have to be filed with the State.
- 112.3135/restrictions on employing relatives. Talk to the attorney before hiring a relative of the Council.
- Only the Council can declare a state of emergency.

VI. Meeting Adjourned

Mayor Barley called for a motion to adjourn. Councilwoman McLean motioned to adjourn. The meeting adjourned at 7:43 p.m.

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FREEPORT CITY COUNCIL

Mayor

Council President

ATTEST:

City Clerk

APPROVED