



**City Council**

City Council Chambers ◊ 524 West Stephenson Street ◊ Freeport, IL 61032

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**COMMITTEE OF THE WHOLE REPORT  
REGULAR MEETING  
Monday, June 9, 2014**

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**1. CALL TO ORDER**

The regular meeting of the Freeport, Illinois, Committee of the Whole was called to order by Mayor James Gitz with a quorum being present at 6:20 p.m. on Monday, June 9, 2014, following the conclusion of a special council meeting.

**2. ROLL CALL**

Present on roll call: Mayor James Gitz and council members Tom Klemm, Ronnie Bush, Jennie DeVine, Dennis Endress, Sally Brashaw, Michael Koester and Alderperson Crutchfield (7). Alderperson Boldt was absent (*see notation at 6:25 pm for his entrance*).

City Staff Present: Corporation Counsel Sarah Griffin, City Clerk Meg Zuravel, Community Development Director Jim Brown, City Engineer Shaun Gallagher, Finance Director Cynthia Haggard, Public Works Director Tom Dole, Fire Chief Scott Miller, and Chief of Police Todd Barkalow.

**3. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Alderperson DeVine, chairperson of meeting.

**4. APPROVAL OF MINUTES**

Alderperson Koester moved for approval of the minutes of the regular meeting held on May 12, 2014, seconded by Alderperson Endress. Motion prevailed by voice vote without dissent.

**5. PUBLIC COMMENTS – AGENDA ITEMS**

Steve Carroll, 811 S. Oak, Freeport Illinois, spoke regarding the Residential Rental Property Regulation Ordinance sent from the last City Council meeting to the Committee of the Whole meeting. He stated it is not surprising that some landlords are trying to use different ways to not register. Their latest scheme is the land contract or rent to own scheme. He stated in listening to Heather Lancaster last Monday, he was struck by the unusual scheme or scams that they have going there with one of them being the land contract or rent to own stretching well into the next century. He recommended that the City tighten this up and do it immediately. He spoke about the fees for the landlords to register and stated his opinion that he did not think this was the reason that the landlords object to regulation. He stated that if the landlord registration does not work, there will be very little hope for our neighborhoods. The neighborhoods are the heartbeat of our City and when our neighborhoods die, then our City dies. Steve Carroll stated that when Mike Lehmann said that he will find the landlords and when he does he will fine them and he would love to see the City put the names and amount of the fines on the City's website and if the City can't do that since this is public information, Mr. Carroll will FOIA that information and it will give him a little bit more to talk about in front of the City Council for three minutes during every meeting.

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At 6:25 p.m., Alderperson Boldt entered council chambers bringing the number of members present to eight.

**6. AS REFERRED FROM THE CITY COUNCIL MEETING:**

**ORDINANCE NO. 2014-29: AN ORDINANCE AMENDING CHAPTER 876 (RESIDENTIAL RENTAL PROPERTY REGULATIONS) OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT Presented by Community Development Director Jim Brown – [view memorandum](#)**

In the Committee of the Whole packet, Community Development Director Jim Brown provided the following written memorandum:

“During the 1<sup>st</sup> Reading of Ordinance No. 2014-29: an Ordinance Amending Chapter 876 (Residential Rental Property Regulations) of the Codified Ordinances of the City of Freeport, it was addressed that throughout the registration of rental properties process staff has become aware of certain issues with the administration of the registration program that need further clarification. These issues included, but are not limited to:

1. Confusion over what constitutes a rental agreement and a land contract
2. Confusion over landlord-tenant responsibilities under the ordinance
3. Registrants providing invalid information, e.g. inoperable phone numbers

“On the basis of these and other issues, staff has drafted an amendment to the original ordinance approved last November that seeks to clarify:

1. That the landlord, and not the local agent, is ultimately responsible for ensuring compliance with City ordinances and bearing the burden of any penalties or fines; and
2. What defines a “land contract” as opposed to a rental agreement; and
3. That the only persons allowed to register rental property are either (a) the landlord, or (b) an attorney or another person legally authorized by a court to act on the landlord’s behalf; and
4. That knowingly providing false registration information is a violation of the ordinance.

“Below is a breakdown of 60 random unresolved cases (out of roughly 250 unresolved cases out of the first 800 registrations) pulled from the registrations on file.

Breakdown of 60 Unresolved Case Samples		
Inaccurate/Missing Local Agent Info	12	20%
Land Contract Issues	21	35%
More Properties than Registered	7	12%
Differing Owner/Address Info	10	17%
Address Missing from Database (GIS)	10	17%
<b>Total</b>	<b>60</b>	<b>100%</b>

“As the figures indicate, the leading problem we face is the issue of a genuine contract sale versus rent to own options or schemes. Just because it purports to be a sale does not make one, especially if the

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Forcible Entry and Detainer statute is used in lieu of the Mortgage Foreclosure Act to evict the tenant/purchaser.

“Even under the proposed definition in the Amendments, there is room for abuse. Any rent to own agreement can become a contact sale merely by recording the contract and including the tenant/purchaser on the real estate tax bill. Some of our property owners have indicated their desire to do exactly this. They want to exempt themselves not only from registration, but from City scrutiny of their properties and tenants when there are problems. Many properties also continue to have a traditional mortgage held by the original owner. This raises the issue of whether the lender is aware of the purported sale and is in agreement, or if the due on sale clause should be triggered. According to most mortgages, the sale of the property triggers a clause making the entire remaining principal and interest due once a property is sold. In other words, the mortgage is not transferable to a new buyer.

“It is my understanding that you (Mayor) and Corporation Counsel are working on alternative definitions for rentals vs contract sales, but have not yet come up with an alternative which is superior to the proposed definition.

“It is our hope that the Council will discuss the amendments, including the contract sale provision, but *not* hold this ordinance in the Committee of the Whole. We would like the ordinance referred to Council for second Reading.

“This ordinance is time sensitive because we would like to start enforcing the RRPRO and calling violators to account. This is especially important regarding the Local Agent issues. If the contact information is false or inaccurate, our ability to contact owners and their agents when there are incidents or issues will be severely compromised.”

Director Brown summarized his memorandum by stating that we have had a lot of good positive dialogue with landlords and he does not want anyone to believe that they are all trying to circumvent the ordinance. He stated one of the purposes of approving this ordinance last November was to have cooperation with the landlords and the City and for a large extent that is occurring. He stated there are a couple of unresolved issues involving a land contract. Last week when we introduced the ordinance there were four amendments and most of the comments were about the definition under land contract because we had a couple of landlords voice their concerns. Director Brown stated from the City’s standpoint we want to craft an ordinance that first allows a valid sales contract or land contract not fall under the scope of the ordinance. At the same time it needs to insure the people who are trying to avoid scrutiny and actually come under that scrutiny and require them to register. Director Brown stated that we may still need to tweak this ordinance in the future but at the moment we would like to move this ordinance along as presented last week and for council action next week.

Discussion was held on council’s opinion as to the recommended ordinance. Heather Lancaster and Mike Lehmann, staff members working on the Rental Property Registration, spoke on issues with landlords who have yet to register. Both staff members stated that eventually we will find them by cross-checking tax records or assessor records but it will take some time. They also discussed an issue on landlords, who although they registered, they provided false information or improper local agent information. This includes entering their own phone numbers and a different name for the registered agent.

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Aldersperson Koester made a motion to move the Ordinance No. 2014-29 back to City Council for reconsideration for approval, seconded by Aldersperson Bush. Motion prevailed by voice vote without dissent.

**7. MEADOWS TIF PLAN AND ELIGIBILITY STUDY PRESENTATION**

View copy of: [Project Plan and Eligibility Report for Meadows TIF Redevelopment Area](#) as placed on the City of Freeport website under Departments

In the Committee of the Whole packet, Community Development Director Jim Brown provided the following written memorandum:

**“Background:** In May 2014 the City Council approved an eligibility study and redevelopment plan for a proposed new Tax Increment Financing (TIF) district on the near the intersection of South Street and West Ave. This proposed TIF has been labeled “the Meadows TIF.” Additionally the Council established a date, July 7, 2014, for a public hearing on this matter.

“The City engaged Vandewalle & Associates (V&A) to conduct the study and draft the plan. V&A submitted both the study and the plan in one document, “Project Plan and Eligibility Report for Meadows TIF Redevelopment Area.” This document, dated May 9, 2014, has been available for public review.

**“The Eligibility Study:** The eligibility report is part II of the document. It includes a discussion of the proposed TIF Redevelopment Project Area (“the Project Area” or “RPA”). It also contains the analysis and findings regarding on how the project area meets state statute requirements for the establishment of a TIF “Conservation Area.” (There are three types of TIF project areas: Blighted Areas, Conservation Areas, and Industrial Park Conservation Areas.)

“Findings are that: (1) At least 50% of the structures in the area have an age of 35 years or more; and (2) seven of the state statute’s thirteen eligibility factors are present in the area. The seven factors found are:

- Deterioration
- Presence of structures below minimum code standards
- Excessive vacancies
- Inadequate utilities
- Deleterious land-use or layout
- Lack of community planning
- Stagnant growth rate of Equalized Assessed Value

“Thus the proposed project area meets the statutory requirements for designation as a Conservation Area. The report concludes that the proposed project area “is in need of revitalization and guided growth to ensure that it will contribute to the long-term physical, economic, and social well-being of the City.”

**“The Redevelopment Plan:** The plan offers RDA objectives and redevelopment activities. It divides the area into sections, and provides a discussion of potential future land uses and redevelopment activities within those sections.

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“Perhaps most important for several concerned residents of the area is the future of inhabited residential units. Based on the eligibility report, the plan states that “the City has concluded that there are fewer than 75 residential units (71) and the City hereby affirms that it will not displace 10 or more residences within the Project Area.” (p. 23)

**“Citizen Concerns:** The City has received several inquiries regarding the study and plan. Most of these inquiries are concerned with the inclusion in the project area of agricultural land north of Yellow Creek. This agricultural land is, for the most part, in the designated floodplain. This floodplain/agricultural area was included in the project area for a couple of reasons. First, it provides contiguity to include a stalled housing development in the project area, and second, it paves the way for TIF redevelopment funds to be dedicated for storm water improvements on those agricultural/floodplain properties. Indeed, the V&A document notes that “these areas are currently being farmed but could be used to improve storm water management in the entire Project Area.” Moreover, the future land use map included in V&A’s document indicates that this agricultural area will remain “open space.” This is consistent with the City’s latest comprehensive plan.

**“The Approval Process:** The project plans and eligibility study are drafts—they can be changed based on public comment and wishes of the Council. The plan and study are presented to the Committee of the Whole in order that the Aldermen may have a detailed look at V&A’s analysis and findings prior to the required public hearing.

“The public hearing is scheduled for July 7, 2014. City Council approval of the study and the actual establishment of a new TIF district would occur at a subsequent meeting.

“A presentation covering some general background information on Tax Increment Financing, the V&A eligibility report and the study will be provided at the Committee of the Whole meeting.”

Director Brown prepared a PowerPoint presentation to review the above stated information. This PowerPoint presentation included color maps distinguishing the proposed TIF boundary including areas marked for residential, commercial, mixed use and open space (contained in the [Project Plan and Eligibility Report for Meadows TIF Redevelopment Area](#)) which have been available for viewing since May 9, 2014 in the City Clerk’s office and it is also available on the City of Freeport website.

Director Brown reiterated that there will be a Public Hearing for the Project Plan and Eligibility Report for Meadows TIF Redevelopment Area on July 7, 2014 at 6:00 pm during the regular City Council meeting. He has asked the TIF consultant to be present. Discussion was held as to the questions being asked by the public as they come in to view the TIF plan and map. Director Brown stated that most of the questions have been in regard to the area west and south of Meadows Drive. Most of these inquiries are concerned with the inclusion in the project area of agricultural land north of Yellow Creek. This agricultural land is, for the most part, in the designated floodplain. This floodplain/agricultural area was included in the project area for a couple of reasons. First, it provides contiguity to include a stalled housing development in the project area, and second, it paves the way for TIF redevelopment funds to be dedicated for storm water improvements on those agricultural/floodplain properties. The V&A document notes that “these areas are currently being farmed but could be used to improve storm water management in the entire Project Area.” Moreover, the future land use map included in V&A’s document indicates that this agricultural area will remain

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“open space.” This is consistent with the City’s latest comprehensive plan. Director Brown explained that there are a couple of vacated basement foundations that were poured a while back and because of the stalled condominium project the funds from the TIF plan can help to pay for removal of the foundations.

Director Brown explained that there was very little probability for the green areas (located on the map) to be developed since that area is in the flood plain. Discussion was held on the CVS and South Street retail area and it was stated this area is included in another currently active West Avenue TIF. Director Brown stated that if the council has any questions on TIF districts, they should contact him.

**8. INFORMATIONAL ITEM ON POSSIBLE BOND REFINANCING**

Cynthia Haggard, Finance Director stated the City of Freeport’s bond rating has gone from A+ to A. She stated we are still considered to have a stable outlook. She stated we are interested in refinancing series 2004 and 2005 general obligation refunding bonds and they have received proposals from two firms and one was based on the credit rating of A+ so it will need to be updated and the other was received on June 5, 2014. She stated we need to make sure the proposed refunding is comparable on all the firms before the City determines the best course of action and whether it is a value savings so they are looking at a time frame of August or September for the refunding. Discussion was held as to why the City’s bond rating has gone from A+ to A. Mayor Gitz explained that this is through the bonding agency and it is caused from the economy and may be attributed to the loss in EAV and the loss in jobs. He stated this has nothing to do with the City’s operation which is considered stable. Mayor Gitz explained in the wake of 2008 when some of the bonds with a rating of AAA had issues, then there is an extra conservatism for rating. In his opinion bonds are still the safest investment in town. When it comes to municipalities, they look at our tax base, they look at the economic situation and they look at our overall expectations and from there they make a conclusion as what is an appropriate rating. Mayor Gitz stated none of us are happy about this and we can over time improve that bond rating. Mayor Gitz stated the level of debt as compared to the EAV is a factor but he does not feel that the level of debt that we are carrying has put us into a vulnerable position but it is taken into account in terms of our future investments. Mayor Gitz stated the council has heard from our Water and Sewer Director regarding the gravity of our Water and Sewer system and Tom is aware of some situations recently and we haven’t even increased the pressure in some of our areas. That has not been done and yet we have experienced breaks in a pattern. He stated while we sort out all the savings that we can have in this refinancing we need to look at our financial profile of Water and Sewer in determining what is the level of investment that we can safely make right now in new improvements, especially in the water system in the near future and finance them out of our present revenues or slight increases.

**9. PUBLIC COMMENTS – AGENDA OR NON-AGENDA ITEMS**

There were no public comments at this time.

**10. ADJOURNMENT**

Upon motion (Brashaw) duly made and seconded (Bush), the meeting was adjourned at 7:20 p.m.

*S/ Meg Zuravel*  
Meg Zuravel, City Clerk