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 6:00 p.m. on Monday, September 9, 2013, in Council Chambers.

2. **ROLL CALL**
Present on roll call: Mayor James Gitz and council members Tom Klemm, Shawn Boldt, Jennie DeVine, Dennis Endress, Sally Brashaw, Michael Koester, and Alderperson Crutchfield (7). Alderperson Bush was absent.

City Staff Present: Corporation Counsel Sarah Griffin, City Clerk Meg Zuravel, Community Development Director Shelly Griswold, City Accountant Duane Price, Public Works Director Tom Dole, Police Chief Jerry Whitmore, Interim Fire Chief Jim Blackbourn, and City Engineer Shaun Gallagher

3. **PLEDGE OF ALLEGIANCE**
The Pledge of Allegiance was led by Alderperson Klemm.

4. **PUBLIC COMMENTS – AGENDA ITEMS**
There were no public comments.

5. **APPROVAL OF MINUTES FROM MEETING HELD ON JULY 8, 2013**
Alderperson Brashaw moved for approval of the minutes August 12, 2013, seconded by Alderperson Boldt. Motion prevailed by voice vote without dissent.

6. **DISCUSSION OF PROPERTIES OWNED BY CITY OF FREEPORT**
The first item was a Power Point presentation by Architect Gary Anderson on historic tax credits. He stated that there are historic tax credits that are available on projects for renovation of historical buildings and provided examples of their use in Rockford, Illinois including renovations on the Amerock/Ziock Hotel Development, Rockford Trust Building, 326-330 East State Street, 408-412 East State Street and Prairie Street Brewhouse. These projects took many years to complete and provided a much needed boost to the downtown Rockford building improvement. One historic tax credit that is available is through the Federal Tax Credit (FTC) of 20%. Another one called State Tax Credit is still pending and would have a 20% project cap. Mr. Anderson stated that a total applicable credit of 40% of qualified rehabilitation expenses makes a project feasible to developers. Mr. Anderson provided an example of a $2 million project. He stated with the FTC additional equity value of 20% would be at $400,000 at 85% would be an amount of $340,000. Then, with the State HTC equity value in an
amount of $340,000 the project would have a total additional equity of 34% equalizing $680,000. Mr. Anderson provided another additional financial incentive in the TIF or other public improvements. He stated the sale of historic tax credits can be to local investors, banks, national finance houses and corporations. Mr. Anderson stated that there has been a surge of investment in Rockford with the use of the 20% Federal Historic Tax Credits and with the 20% State Historic Tax Credits. The committee of the whole was provided an opportunity to ask any questions.

7. RECOMMENDATION TO COUNCIL REGARDING A DRAFT OF “AN ORDINANCE CREATING CHAPTER 880 (REGULATION OF TOBACCO PRODUCTS) OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT, ILLINOIS”

Chief of Police Jerry Whitmore explained the draft ordinance which he stated came out of the Mayor’s draft Public Safety Plan and creates a Chapter 880, REGULATION OF TOBACCO PRODUCTS.

The Ordinance included wording as follows:

880.01 LEGISLATIVE FINDING AND DECLARATION.
   (A) The Mayor and City Council expressly find and declare that:
      a. Cigarette smoking is dangerous to human health;
      b. There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease, and various other medical disorders;
      c. The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in the country;
      d. The Director of National Institute on Drug Abuse concluded that the majority of the 320,000 Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent;
      e. The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug use; and
      f. The present legislative scheme of prohibiting sales of tobacco products to persons under the age of 18 has proven ineffective in preventing such persons from using tobacco products;

   (B) The enactment of this chapter directly pertains to and is in furtherance of the health, welfare and safety of anyone in the City, particularly those residents under 18 years of age.

880.02 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them. SMOKING HERBS: All substance of plant origin and their derivatives, including, but not limited to, Broom, Calea, California Poppy, Damiana, Hops, Ginseng, Lobelia, Jimson Weed, and other members of the Datura Genus, Passion Flow and Wild Lettuce, which are processed or sold primarily for use as smoking materials. TOBACCO ACCESSORIES: Cigarette paper, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items designed primarily for the smoking or ingestion of tobacco products, or of substance made illegal under any Illinois State Statute or this chapter, or of substance whose sale, gift, barter or exchange is made unlawful under this section. TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping
tobacco. VENDING MACHINE: Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.

880.03 LICENSE REQUIRED.
It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products or smoking herbs within the city without having first obtained a "tobacco dealer's license". Such license shall be in addition to any other license required by this Code. This license will be in effect from May 1 to April 30 of each year, therefore pursuant to this chapter. Such license shall be in addition to any other license required by this code.

880.04 LICENSE APPLICATION.
Application for license hereunder shall be made in writing to the City Clerk and shall be processed in accordance with the provisions of Chapter 802 of this code.

880.05 LICENSE FEE.
The license fee for a tobacco dealer’s license shall be $150.00 per year.

880.06 DELIVERY; SIGNS.
(A) Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco products, tobacco accessories and smoking herbs and on or near every tobacco vending machine. Each such sign shall be plainly visible from the point of purchase and shall state: "THE SALE OF TOBACCO PRODUCTS, TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER EIGHTEEN YEARS OF AGE AND THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW." The text of such signs shall be in red letters on a white background, said letters to be at least one inch high.

(B) Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this chapter by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

880.07 MINIMUM AGE TO SELL TOBACCO PRODUCTS.
It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ, or permit any person under 18 years of age to sell tobacco products in any licenses premises.

880.08 PURCHASE AND POSSESSION BY MINORS PROHIBITED.
It shall be unlawful for any person who is under the age of 18 years to purchase tobacco products, tobacco accessories, or smoking herbs, or to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products, tobacco accessories, or smoking herbs.

880.09 PROHIBITED SALES.
It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, tobacco accessories, and/or smoking herbs to any person who is under the age of 18 years as described in Chapter 650, Section 650.04
880.10 PROXIMITY TO CERTAIN INSTITUTIONS.

It shall be unlawful for any person to sell, offer for sale, give away, or deliver tobacco products within 100 feet of any school, child care facility or other building used for education or recreational programs to persons under the age of 18 years.

880.11 CERTAIN FREE DISTRIBUTIONS PROHIBITED.

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promotion or advertising tobacco products, or any employee or agent of any such licensee or person, in the course of such licensee’s or person’s business, to distribute, give away, or deliver products free of charge to any person on any right-of-way, park, playground, or other property owned by the City, any school district, any park district or any public library.

880.12 VENDING MACHINES; LOCKING DEVICES.

(A) It shall be unlawful for any licensee to sell or to offer for sale, give away, deliver, or to keep with the intention of selling, giving away or delivering tobacco products by use of a tobacco vending machine, unless such vending machine is equipped with a manual, electric or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of 18 years.

(B) Every tobacco vending machine shall be in plain view of the licensee or its agents or employees during business hours.

(C) Any premises where access by persons under the age of 18 years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of a business located at such premises, shall be exempt from the requirements of this section.

880.13 SURVEILLANCE CAMERAS.

(A) Purpose. The City Council finds that tobacco dealers can become targets of opportunity for theft and violent crimes. The purpose of this section is to protect the public health, safety and welfare by increasing security for patrons and employees of these businesses by the use of surveillance cameras. Surveillance cameras will assist in deterring crime in and adjacent to such businesses and can provide information to assist the police in investigating crimes that do occur.

(B) Security requirements. Every tobacco dealer shall install a recording security camera of a type, number and placement approved by the Chief of Police of the City.

(C) Maintenance of equipment and recording media required. The Chief of Police shall have the authority to formulate reasonable rules to fully implement this Chapter.

1. Type of camera required. The camera(s) must be capable of producing a retrievable image on VHS tape or digital media that can be made a permanent record and which can be enlarged through projection or other means. Existing systems may be of analog cameras and VHS recording media or a digital camera with a digital video recorder, such equipment shall have date and time stamp on the recorded video and shall be maintained in proper working order at all times during all hours of operation of the business. Any new or replacement equipment shall consist of a digital camera and digital video recorder.
2. Signage required. Said establishments shall post a conspicuous sign which states that the property is under video surveillance.

3. Minimum standards. Cameras shall be subject to periodic inspections by the Chief of Police or his/her designee.

4. Management of VHS or digital media. Said establishments shall maintain and make available; video tapes; film or digital media, to the Freeport Police Department for periods of one month before reusing or destruction of media. VHS Videotapes and digital media shall be marked with the day of the month the material was used. Digital materials shall be marked with the time and date. The establishment shall retain one blank VHS tape, or digital media to be used if the other media is taken by the police department or if the other recording media fails. All VHS video tapes shall be replaced after being used twelve (12) times. All digital recording media shall be replaced upon failure or at the manufactures recommended replacement schedule whichever occurs first.

5. Knowledge of equipment required: All licensees are required to have operational knowledge of any surveillance equipment installed on the licensed premises. Such knowledge will include but not be limited to setup, use and operation, viewing retrieval and transfer of video to removable storage media.

(D) Effective date. This Section shall take effect on January 1, 2014 for all existing businesses and immediately for all new business applicants.

880.14 RESPONSIBILITY FOR AGENTS AND EMPLOYEES.
Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this chapter by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner.

880.15 SUSPENSION; REVOCATION OF LICENSE; FINES, COSTS.
The Mayor, as License Officer, shall be charged with the administration of this chapter. The Mayor may suspend for not more than 30 days or revoke any license issued under the provisions of this chapter, if he or she determines that the licensee has violated any of the provisions of this chapter.

880.16 USE OF PREMISES AFTER REVOCATION.
When any licensee shall have been revoked for any cause, no license shall be granted to said licensee for the period of six month thereafter for the conduct of the business of selling tobacco products as defined in § 880.03 in the premises described in such revoked license.”

Discussion was held on the draft ordinance with members stating the support or opposition to the ordinance. Discussion was held on addressing the signage that covers the front windows. Corporation Counsel Griffin stated she drafted this ordinance with an effective date of December 2, 2013 and the surveillance cameras would go into effect on January 1, 2014.

Chief Whitmore stated that there are issues with liquor licenses holders who sell tobacco products. He stated that it may not be necessary because they do not allow underage on their property having surveillance cameras or sell from behind the bar area. He will formulate an amendment and have it ready for the next council meeting. Alderperson Crutchfield made a motion to recommend the ordinance to council, seconded by Alderperson Boldt. Motion passed by voice vote without dissent.
8. **RECOMMENDATION TO COUNCIL REGARDING A DRAFT OF “AN ORDINANCE AMENDING VARIOUS PORTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT TO CHANGE CERTAIN RESPONSIBILITIES FROM THE CITY ENGINEER TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND RENAMING THE COMMUNITY DEVELOPMENT DIRECTOR AS THE BUILDING COMMISSIONER”**

Interim Community Development Director Shelly Griswold provided a written document dated September 9, 2013 explaining the reasons behind this draft ordinance that proposes returning the Community Development Department to the structure that existed until 2011. In other words, this ordinance proposes to return the building department, nuisance inspector and animal control officer to Community Development. The memorandum summarized the best management practice and efficiency of functions with Director Griswold doing research on 33 Illinois communities, all with populations from 15,000 to 30,000 and of those 93.9% had the building department and code enforcement in the Community Development department.

City Engineer Shaun Gallagher provided a copy of a letter he had written to Mayor Gitz dated June 11, 2013 describing the work load he took on when the building department was moved to his responsibility. He was told at the time the responsibilities it would require an additional five hours a week and, as it currently stands, it takes about 25 hours per week. If this continues, future engineering projects that could be performed in-house may have to be outsourced to consultants due to time constraints. It should be noted that engineering work that has to be outsourced is typically charged to the City / Commission at three times that of the current hourly rate of the City Engineer. Discussion was held having the Nuisance Inspector and Animal Control Officer available to the Public Works Department in the winter for snow plowing. Discussion was held on the number of properties that are in need of demolition and the tremendous amount of time that need to be dedicated to this project by the Building Department which would necessitate the additional time of the City Engineer.

Alderperson Boldt made a motion to recommend the ordinance to council, seconded by Alderperson Crutchfield. Motion passed by voice vote without dissent.

9. **ALBER REDEVELOPMENT AGREEMENT - RAWLEIGH BUILDING D AS PRESENTED BY COMMUNITY DEVELOPMENT DIRECTOR SHELLY GRISWOLD**

Interim Community Development Director Shelly Griswold presented an update and stated that the goal is to get the property into private ownership and productive reuse but it will not be done if it is not in the best interest of the City of Freeport and its citizens. Mayor Gitz provided an update on proposals to develop a redevelopment agreement and stated there have been numerous negotiations. Mayor Gitz stated it is a complex agreement but it needs to be fair to both sides and when we move forward on an agreement it has to be in the best interest of the City.

10. **PUBLIC COMMENTS – AGENDA OR NON-AGENDA ITEMS (LIMITED TO 3 MINUTES PER PERSON)**

- Alderperson Boldt invited Deb Elzinga, to speak about the reception for preserving USDA rural housing designation at an open house at the HomeStart Office to be held on September 13, 2013 at 10:00 am. She encouraged attendance by the administration and corporate authorities.
She stated she will provide a posting to the City Clerk so that a majority of a quorum of council members could attend.

11. ADJOURNMENT
Upon motion (Endress) duly made and seconded (Brashaw), the meeting was adjourned at 7:50 p.m.

S/ Meg Zuravel
Meg Zuravel, City Clerk