



## **City Council**

**City Council Chambers ♦ 524 West Stephenson Street, 3rd Floor ♦ Freeport, IL 61032**

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### **MINUTES**

#### **REGULAR MEETING**

**MONDAY, DECEMBER 21, 2015 AT 6:00 P.M.**

#### **CALL TO ORDER**

The regular meeting of the Freeport, Illinois, City Council was called to order in council chambers by Mayor Jim L. Gitz with a quorum being present at 6:00 p.m. on December 21, 2015.

#### **ROLL CALL**

Present on roll call: Mayor Gitz and council members Tom Klemm, Peter McClanathan, Art Ross, Jodi Miller, Patrick Busker, Sally Brashaw, Mike Koester, and Andrew Chesney (8). Representing the City of Freeport as special counsel was Michael Phillips, Esq.

#### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Alderperson McClanathan.

#### **APPROVAL OF AGENDA**

Mayor Gitz requested to add introductions of our newest fire fighter and new officers between approval of minutes and Consent Agenda. Alderperson Koester moved for approval of the agenda as presented, seconded by Alderperson Ross. Motion prevailed by voice vote without dissent.

#### **PUBLIC COMMENTS – AGENDA ITEMS**

Michael Meade, 217 W. Main, spoke applauding the support shown at the last council meeting of the City Centre plan. It is time for positive change. Great leaders set out to make a difference noting that it is not about the role but the goal. Everyone in this room is focused on bettering Freeport. It is time to examine that we are working with old buildings and needing new ideas. He spoke of thinking outside of the box in reference to the Rawleigh building. He invited everyone to write a new chapter to vote this plan in place. He spoke of the need to come together, say we did it, we fixed our town. It is about writing our future.

Ryan Hughes, 2853 Southview Drive, Lake Carroll, spoke as a private investor and developer of upper floor living spaces, specifically second and third floor vacant places in our downtown. When developed to our standards it will raise property values and increase property taxes through population and beautify our downtown architecture. He spoke of the need to have our second and third floors to be high end living spaces. He spoke of the need to change our customer base in the downtown area because this is the population that supports the businesses and restaurants in our downtown. In order to draw businesses to downtown we need to develop a built in customer base rather than the low income that is our current demographic. Mr. Hughes stated we are working with old buildings and outdated infrastructures and both of those obstacles create unknown challenges that make it difficult to create a budget for a business plan to present to traditional lending sources. He stated this has been a slow process with the four financial programs currently in place for the downtown area. He and his partners have taken huge risks to develop these programs and they have been well received. He stated they are willing to risk necessary capital if they can get support and does not believe they can go on without it. He stated reality lies in the level of courage to make changes.

Jessica Modica, 4338 S. Cranes Grove Rd, thanked the City for support and consideration of the City Centre initiative. She spoke of the recognition of the arts as they underscore the social, physical, and economical impact

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in this corner of the arts and culture corridor. By creating beautiful spaces this can enrich the community. It will reveal and celebrate our identity.

Amy Fairweather, 51 Elizabeth Circle, spoke in support of City Centre and briefly described her and her husband Ben's experience with working with Jeff Wagner to develop their local photography business on the upper floor on West Main. They operate out of a 2,100 square foot space that was fabulously repurposed. She spoke of the two-fold increase in business since last year. She spoke from an entrepreneurial standpoint of needing more people so they can do what they are supposed to do. She stated City Centre can help to create that.

William Green, 1690 Barberry Circle, spoke in support of City Centre as to what it means to community artists, art center, and leaders from different businesses around town. The head of community activist is someone from the 3<sup>rd</sup> Ward, someone to stand up in a true collaboration effort that proposes to unify our community at the heart of Freeport. He spoke of allowing development and stimulating ideas to all people the vision to get things completed in a timely fashion. He stated this will improve our economic structure and gives our City hope.

Dean Wright, 341 S. Main, Pearl City, spoke that they are here to ask for support of Resolution 2015-70 to support funding through the downtown TIF and to do something differently. He spoke of hearing for the past twenty years to do things differently and stated that tonight we have a rare opportunity to do something to impact the future. He spoke of having a difficult decision and for the need to change how we think about downtown Freeport. He believes that things can be better by creative living spaces, destination places and venues unique to Freeport. He spoke that if you want something different, then the choice is City Centre. If you do not want change then we know the rest.

Jeff Wagner, 213 W. Main, he spoke that everyone here has spoken eloquently on how Freeport needs to change and move. He is here to tell how it is from someone who has done the job on a piece of property in Freeport. It is a very difficult process that takes a lot of time and a lot of money. He spoke of his 45 years in the construction business and that this was difficult for him to do. He funded it out of his own pocket and made his own schedule and did a lot of the work as a licensed contractor. He spoke of seeing the opportunity with City Centre to be an opportunity for improvement that we currently do not have. He provided support and the need to find a reason to do this because he does not think there is anyone out there at this particular time to occupy the space he has refurbished. If he had someone to rent it he would do it. If there was some financing to keep the money from being a drain on his company he would do it also. He stated his full support of this program and the hope that it goes forward.

Fritz Kuhlmeier, 6405 E. Knoup Rd., Dakota, he spoke to reinforce the support of NIDA for the City Centre project and the related resolutions on your agenda this evening. He spoke in regard to the meeting on December 8<sup>th</sup> when the organizers of City Centre Freeport presented the plan to NIDA board. Following the presentation and much discussion the NIDA board voted unanimously to support the City Centre plan and to act as project manager per the request of the City Centre organizers. One component of the plan is a small business collaborative made of up NIDA, City, Chamber of Commerce, Convention and Visitors Bureau, and the Downtown Foundation. NIDA's resolution committed to \$10,000 per year for three years to create this collaborative conditioned on the downtown TIF committing \$25,000 per year for three years and the other partners a total of \$15,000 per year for three years. He spoke that City Centre is the type of proactive use of TIF increment that NIDA has seen best practices employ to leverage private investment and grow EAV.

Brian Borger, 1828 W. Canyon Dr., spoke about his youth and business connections to downtown. He spoke of his experience as a downtown bank manager and managing a sales force for the loan department and when his people would come back from customers they were trying to lend money to and he would say that they couldn't do what was requested. He spoke that they all sat down and figured out how to make it work, how to move it

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forward, how to solve those issues to provide what the customers were looking forward. He stated that made a difference in his life as you can always find fault and reasons why things can't be done and stated it takes a lot of courage to make it happen.

Jenny DeVine, 411 N. Apple former alderman made a request to make a special presentation. She stated she collected cookbooks and she had a copy of Mayor Gitz's mother's cookbook present for him.

### **MINUTES**

The minutes from the special meeting November 30, 2015 and the regularly scheduled meeting on December 7, 2015 were presented for approval. Alderperson Busker moved for approval, seconded by Alderperson Koester. Motion prevailed by voice vote without dissent.

### **INTRODUCTION OF NEW FIREFIGHTER AND PARAMEDIC TYLER CHRISTOPHERSON**

Fire Chief, Scott Miller introduced new Firefighter and Paramedic, Tyler Christopherson. Due to the November 20, 2015 retirement of Firefighter, Mary Tessendorf the City was able to hire Tyler who comes to us pre-trained therefore saving the city several thousands of dollars in training fees. Tyler was hired effective November 30, 2015. He has his Associates Degree of Applied Science from Kishwaukee College – Paramedic. He is certified through the Illinois Office of the State Fire Marshal in:

1. Basic Operations Firefighter
2. Technical Rescue Awareness
3. Hazardous Materials Awareness
4. Hazardous Materials First Responder – Operations

Tyler comes to us from Lynn-Scott-Rock Fire Department, Davis Junction, IL where he has been a volunteer Firefighter/EMT since August 2012. He also has worked for the Rochelle Fire Department as a Firefighter/Paramedic from March 2015 to November 2015. Tyler currently resides in Chana. He spoke of the credit being due to the Fire and Police Commission for finding pre-trained and pre-qualified personnel.

Tyler Christopherson spoke to thank everyone in the City of Freeport for giving him this opportunity and that he looks forward to a long career here.

### **INTRODUCTION OF NEW POLICE OFFICERS; WILLIAM WHITFIELD, BRAD SCHUBERT, JACOB MARTOS, DANIEL MOORE**

Police Chief, Todd Barkalow spoke that these four recruits were introduced in September prior to their State training. They replace three retirees; Jeff Mastroianni, Jim Drehoble, and Laura Horning. He spoke of still being a little in the hole but this is a great start to rebuilding the department. These four recently graduated from Intensive Scenario Based training in Champaign. That training was the foundation and they will be building upon that. He introduced William Whitfield who is from Chicago, Brad Schubert and Daniel Moore are from Freeport, and Jacob Martos comes to us from Belvidere. He stated they are not in uniform yet as they now have a two week orientation of city layout and policies and procedures before they start their field training for a ten week program. It will be March or April 2016 before they respond solo to calls.

### **CONSENT AGENDA**

The following items were presented on the Consent Agenda in the council packet and Mayor Gitz read the listed items into the record.

A. Approval to receive and place on file:

- 1) City Treasurer's Monthly Investment Report for period ended Nov. 30, 2015
- 2) City Treasurer's Report of Cash and Fund Balances for period ended Nov. 30, 2015

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- 3) Police Department Report on Activities for November 2015
- 4) Fire Department Report on Activities for October 2015
- 5) Fire Department Report on Activities for November 2015
- B. Approval of Motor Fuel Tax Fund Bills Payable (Register #0073) --- \$9,074.50
- C. Approval of Water & Sewer Bills Payable (Registers #455, 458, 459, 462) --- \$316,763.31
- D. Approval of Payroll for pay period ending December 12, 2015 --- \$400,326.99
- E. Approval of Finance Bills Payable (Registers #454, 456, 457, 460, 461) --- \$420,628.09

Aldersperson Koester moved for approval of the consent agenda as presented, seconded by Aldersperson Brashaw.

The motion prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, Chesney, Klemm

Nays: None

Aldersperson Koester spoke of the family ties that new Police Officer Brad Schubert has with the Fire Department having his father Curt, his uncle Todd and brother, Chad having a history with the Fire Department.

### **COMMUNICATION TO COUNCIL**

William Hadley, Stephenson County Board Chairman spoke of four projects that he wanted to give updates on. The first being Mill Race Crossing which was a cooperation of the City, County, and NIDA. A project was started that without it they would not have been able to do the infrastructure there. He spoke of having phase three electric in the area going down to Colby Road in the industrial park. They have a four inch gas main going down Colby Road in the park and enough Comcast fiber to cover the park at no cost to the tax payers or the county. They just got done blacktopping the road in the park all the way down past In Grown Farms. With these infrastructure improvements they hope to attract new businesses. He spoke of the recent expiration of the contract with Century 21 out of Rockford that was the real estate agent for the park. Right now with all of the infrastructure both inside and outside the park he has been working with NIDA and Planning and Development Committee at looking at a national group to come back into Mill Race Crossing to market it. Last time they had a national contract in place they couldn't market Mill Race due to infrastructure limitations. He spoke of working with Fehr Graham about the water and sewer for that area and the possibility of not having to run water and sewer from the City of Freeport. He explained this could be standalone system to cover the whole park for \$1.5 million to \$2 million. He spoke of having to have an end user and the fact that In Grown Farms has chosen to have their own wells and septic tanks.

Second, he spoke regarding Regionalism and RMAP (Rockford Metro Agent of Planning) where Stephenson, Winnebago, and Boone counties would build a coalition for a grant written and submitted by Fehr Graham. He stated it is good to work together as a region and test the waters to see how this grant turns out. It is a \$600,000 assessment grant.

Third, he spoke of being approached to be a part of a seven county regional planning commission. The counties involved would be McHenry, Boone, Winnebago, Stephenson, DeKalb, Ogle, and Lee. He spoke of the Mayor, NIDA, and RMAP being in the mix. The idea is to model this after a planning commission that was used in Denver, Colorado where nine counties and 60 municipalities benefited. He spoke of planning a field trip to Milwaukee area. This resolution will be voted on next month and if approved he will reach out to get municipalities involved.

The fourth thing he spoke in regards to was the money that the County owes the City. He has received calls regarding this and referred to a report he had provided that showed that when he came on board the County owed the Park District \$103,000 and that bill came first. He stated that they had two bills from the City totaling

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\$83,000 and they have it in the budget to pay the first payment sometime in May and the other bill the end of the summer.

Aldersperson Brashaw thanked Mr. Hadley for the updates and asked where the grant money was going to be applied to.

Mr. Hadley responded assessment only and that they have identified corridors within the City of Freeport.

**ORDINANCES -- SECOND READING**

**2<sup>nd</sup> READING OF ORDINANCE #2015-66:**

**AN ORDINANCE FOR THE LEVY AND ASSESSMENT OF TAXES FOR THE FISCAL YEAR BEGINNING MAY 1, 2015 AND ENDING APRIL 30, 2016 FOR THE CITY OF FREEPORT, COUNTY OF STEPHENSON AND STATE OF ILLINOIS.**

The first reading was held on December 7, 2015. A motion to approve was given by Aldersperson Klemm, seconded by Aldersperson Chesney and the ordinance was automatically laid over to tonight's meeting. The second reading was held.

Aldersperson Koester spoke that he understands the reasons why they are voting on this but stated that he feels it is a mistake as it will leave us with a \$660,000 shortfall in next year's budget. He stated it is quite a bit of money to absorb especially when our reserves are going down. He asked the other council members what they were going to do, what plans were going to be made. He asked if they were going to look for other revenue sources or going to cut the budget, which is going to mean cutting personnel and services. He stated to cut the budget that much and not have a plan to compensate and keep the services going is irresponsible.

Aldersperson Brashaw spoke of looking at some sort of luxury tax as alternative. She said she doesn't consider housing a luxury and she vowed to her constituents not to raise taxes.

Aldersperson Chesney requested that Mayor Gitz call the question.

Mayor Gitz stated that for the benefit of the public the council has recommended for consideration and now in 2<sup>nd</sup> reading essentially a 0 based increase in the tax levy. He spoke that this means ideally assuming the same level of collection and with no change in assessed valuation means no homeowner or business owner would pay an increase in the City's portion of the taxes. He stated we are 9% of the tax bill and that there are other taxing bodies that may have separate levies.

The motion for the passage of the Ordinance #2015-66 prevailed by a roll call vote of:

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Chesney, Klemm (7)

Nays: Koester (1)

**2<sup>nd</sup> READING OF ORDINANCE #2015-67:**

**AN ORDINANCE FOR THE LEVY AND ASSESSMENT OF TAXES FOR THE FISCAL YEAR BEGINNING MAY 1, 2015 AND ENDING APRIL 30, 2016 FOR THE PUBLIC LIBRARY OF CITY OF FREEPORT, COUNTY OF STEPHENSON AND STATE OF ILLINOIS.**

The first reading was held on December 7, 2015. A motion to approve was given by Aldersperson Brashaw, seconded by Aldersperson McClanathan and the ordinance automatically laid over to tonight's meeting.

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Public Library Director Carole Dickerson commented that the proposed library levy is the same as last year. She stated that the library has a lot to offer with its new building, central location, ADA accessible, and convenient parking. She spoke of the decline in funding that have led to concerted reductions that include materials budgets in 2011 being reduced to 2009 levels and having remained frozen. She explained she has not been filling positions, eliminated a full time supervisor, and consolidating positions when retirements occurred. Over time this has resulted in a 37.5% reduction of full time staff. She spoke of changes in the hours to reduce times the library is open and making changes in janitorial to custodial service. She spoke of when she applied for her position in 2004 and having the library board ask her what she thought of the \$1.3 million budget and she described it as modest at best. The levy is now at \$991,413 and the declining property values have required them to rethink services that they may no longer be able to maintain. It will only be in the late spring when they find out the amount they will actually be collecting from the levy. We anticipate it will continue to be necessary to continue to reduce expenditures and services or draw on reserves or a combination of the two approaches.

Aldersperson Brashaw commended the library on the efforts of the staff and commented that it was well run even with budgetary constraints.

The motion for the passage of the Ordinance #2015-67 prevailed by a roll call vote of:

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, Chesney, Klemm

Nays: None

### **ORDINANCES -- FIRST READING**

#### **1<sup>ST</sup> READING OF ORDINANCE #2015-53:**

#### **AN ORDINANCE AMENDING CHAPTER 290 (COMPENSATION AND BENEFITS) SECTION 290.11 (LEAVES OF ABSENCE "VACATION LEAVES") OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT**

This ordinance using the version marked as Option A was recommended to the council by the Committee of the Whole in the meeting held on December 14, 2015, on a motion by Aldersperson Chesney, second by Aldersperson Miller and approval by majority vote.

Mayor Gitz asked Aldersperson Miller, being the principal sponsors of changes in this ordinance if she had any additional comments.

Aldersperson Miller replied no but she did have some additional questions.

Mayor Gitz spoke of the memorandum that HR and special corporation counsel had authored that had two alternatives that were offered and discussed briefly at the Committee of the Whole. In special counsel's absence the recommendation was for "option A" to be recommended to the council but that recommendation also carried with it acknowledgement that there may be some legal issues relating to state regulations. He asked Special Counsel Phillips if he had time to review since his return and if he had any observations he would to offer to the council.

Special Counsel Phillips stated there are legal issues some of which he has already brought forward, one of the issues with this idea is there is a state statute called Illinois Wage Payment and Collection Act which forbids entities including the City of Freeport from revoking any type of vacation time already earned. So in a way to avoid being cursed with several large payouts when certain city employees retired who had amassed an amount of unused vacation hours to find a way to make a limit on that was to have an accrual system. Under the system that is in place by the State of Illinois which we all have a copy of the regulation that Sarah provided you in the very beginning we are under an accrual system. Under the accrual system the enforcement action of this is when using the accrual you are awarding this on services already rendered, not to be rendered in the future. That is

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why with every payroll period you have a certain amount of vacation hours after completing that payroll period. You have a previous opinion from one of the law firms who represents the City which as result of a labor arbitration matter from Ancel, Glink which is one of the best known municipal law firms in the State of Illinois saying that the City uses an accrual system and you can't revoke vacation once it is earned. Sarah has also given that opinion and there is a popular memo from the Illinois Municipal League saying that. So basically, we are trying to craft the system that would limit the amount of money that they City may eventually have to pay upon retirement having to pay unused earned vacation. He stated that when you read these court opinions they get to be quite lengthy but basically what they say to use the system where you accrue vacation based on services already earned that is protected. He stated the issue he has is that the proposal that was given at the Committee of the Whole meeting on December 14th was that we are going to say that you are not going to accrue any vacation from your anniversary date in 2015 to anniversary date in 2016. He stated to look at the State regulations and note that the only time that the Department of Labor will recognize a system in which you do not earn an accrual is at the commencement of your employment. There is nothing in the regulations that would allow the City to say to a current employee "oh by the way we are not going to let you accrue any more vacation time for the year until your anniversary date". Special Counsel Phillips stated he is greatly concerned that if this is challenged in court the City would lose. He stated that he cannot guarantee we would win or guarantee we would lose but that is at the discretion of the Department of Labor who specifically states that the only time they will recognize this is at the commencement of employment and only if the city can prove this is not a subterfuge for denying vacation. He stated he had read of a ComEd case in this area where it went to the appellate court and was denied as they did not prove that it wasn't a subterfuge. In that case it was a denial of payment of vacation at the time of termination of employment. The burden is on the employer, which means the City to say we are not doing this. He states that because of the fact that you don't want to grant accruing of vacation to the city employees; again only talking about non-bargaining units of City employees, bargaining units are all covered by collective bargaining agreements, he has great legal questions of whether that is valid. One of the things he is worried about especially is they have now expanded the personal liability of corporate officials for violations of the Illinois Wage Payment and Collection Act. If you have a vote or role in policy making decision and are found to be in violation, individuals can be held liable. He stated whether that applies to vacation making decisions he can find no published court regarding that. He stated that he worries about that and has to advise of that. He explained you can make the choice but will have trouble defending this if there are any challenges by the employees who it affects. Special Counsel Phillips explained that one of the reasons council had received a new proposal that on his first day back he had met with the Fire Chief as there was one section that stated that firefighters could only accrue 72 hours vacation and in another section stated could accrue 14 – 16 days of vacation. He stated that needed to be clarified and was done so in a memo from his office to the Mayor explaining why after meeting with the Fire Chief for two hours and HR director that they had to make some proposed amendments only to Section 6(a) of the proposal.

Aldersperson Miller asked if we were okay here, how do we fix what he was talking about as she was lost a long way back.

Special Counsel Phillips stated no, you are not okay.

Aldersperson Miller then asked how we fix it.

Special Counsel Phillips stated you don't deny people accruing a vacation who have been working for the city for a period of time. If you don't do that I think you are in a much safer position. IML did recognize that you can put a lid on how much you can accrue. He was concerned about that but IML did approve that but the fact that you say to a city employee who has been working for a number of years, no more, you are not going to accrue any more vacation that is what he is concerned about with a legal challenge. That is part of example A that we gave you that was requested to be drafted between A and B. He stated that is what he is sincerely concerned about.

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Aldersperson Brashaw questioned Mr. Phillips as to whether Ordinance 2015-53A was the amendment that he had done today. She noted that Chief Miller's changes were in there.

Mayor Gitz advised that this has not formally been adopted and that it was written down and distributed.

Special Counsel Phillips advised if you look at the one drafted today should say 2015-53A (amended 20151221) meaning amended December 21, 2015. This is the one drafted today after talking to Chief Miller and the HR Director.

Aldersperson Brashaw asked if page 2 of 5 that she has before her of the amended draft is legal at this time.

Special Counsel Phillips advised that he did not change anything in this draft about issue of not accruing vacation time between anniversary dates between 2015 and 2016. He left that as was as instructed by the council. The only thing that the Fire Chief wanted them to address was the issue with his department. As it is written, as it is before you is what I am concerned about. I can't tell you it is illegal, only a judge can tell you that but I can tell you I have grave concerns on the enforceability if challenged.

Mayor Gitz stated he thinks the implied question Aldersperson Brashaw is asking is we are concerned about legal option we can substitute Option B for Option A but we still need to fix the issue with the Fire Department issue because of the interpretation with the 72 hours.

Aldersperson Brashaw stated she gets that and addressed Chief Miller stating she did speak with him ahead of council and she asked if he would please propose that change in his own verbiage.

Mayor Gitz advised that we were getting a little bit ahead of ourselves but okay it is still part of the same proposal.

Chief Miller explained that what this does is distinguishes a maximum amount of accrual and also identifies an opportunity under special circumstances for Fire Department management to carry over a maximum of 3 vacation days from the previous year. That would fall under special circumstances presented to him with his approval. It recognizes the amount of longevity and time on the job by any of the firefighter personnel and it also, differentiates between a 24 hour per day shift person vs an 8 hour per day management or administrative person. It tells you what a maximum accrual would be for a 24 hour shift person and then it also provides for in certain circumstances an additional 72 hours or 3 vacation days carried over from the previous vacation period. He stated that this in no way enhances the vacation package that the members are accruing right now. It just places a cap and provides for rare occasions for a 3 vacation day carryover in this vacation schedule.

Aldersperson Miller asked Chief Miller if the bargaining and non-bargaining employees mirror each other.

Chief Miller replied yes it does and even within the collective bargaining agreement there is reference to the non-bargaining agreement management personnel. It discusses when the personnel select their vacation days which is done in advance to the vacation period. He stated in January they start to pick their vacation time effective May 1<sup>st</sup> to April 30<sup>th</sup> of the next fiscal year. Those days are already assigned going into 2016. Whether a firefighter or battalion chief, most senior person you are still collecting and accruing vacation in the same way with the same maximum amount of benefit days.

Aldersperson Miller acknowledged that there are a lot of things going on at the same time here. She stated her interpretation with A vs B was whether or not they acknowledge the double dipping thing was whether or not they owe someone vacation time or not and that is why they chose A vs the B. We still have to make sure we are within our rights with the capping which is the purpose with this whole amendment to make sure we have caps



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and stick within the legal guidelines. She also questioned the top of page 3 stating the math doesn't add up. She spoke that it says a person earns 8 hours per month of vacation which totals 96 hours per year not 80 hours. She stated she wanted that taken out.

Special Counsel Phillips replied that it states that a person hired in 2015 receives 8 hours per month until such time as they earn 80 hours. It is capped at 80 hours for person hired in 2015.

Alderson Miller stated she wants to make sure no loop hole.

Special Counsel Phillips stated you can argue anything but the verbiage is clear that it is capped at 80.

Alderson Miller spoke of keeping in line with promoting transparency and stated that there is one line in there that is overlooked in this policy stating that she knows in the past there have been side letters and she is not in disagreement with them knowing that there have been instances where people have been given 4 weeks' vacation when the ordinance might have stated they start at 2 weeks. She states it is important to put in there that there be no extra weeks given other than what is stated in the ordinance without council approval so that there is transparency. She stated she would want that amended to state that there would be no additional vacation given other than what is stated in 290 without council approval.

Mayor Gitz advised that such an amendment would not be needed because you cannot by side letter set aside something in an ordinance. A side letter in the past were primarily in relation to health care benefits in discussion in collective bargaining agreements. Absent of authority of council you cannot simply give out vacation and this ordinance will supersede all previous ordinances.

Alderson Chesney stated that Director Haggard's position received 4 weeks' vacation in the very first year and according to ordinance that should not have taken place and that particular compensation was not approved by the council.

Mayor Gitz stated that compensation plan was approved by the council. It was all itemized when she was hired.

Alderson Miller asked if anyone could be given extra right now.

Mayor Gitz advised no, not unless they came to the council and you said okay we have a hiring agreement notwithstanding other provisions that this would apply. He asked for other discussion and debate and reiterated that special counsel has indicated some issues on the legal part and that is out on the table. Option A or Option B. In the absence of any motion to the contrary, he stated he is assuming proceeding with Option A.

Alderson McClanathan stated that based on the representation from special counsel as well as the additions that were made tonight that individuals might want to review those, he would feel comfortable if it is the will of council, to consider changes recommended by council as well as incorporating the fire proposals in January.

Mayor Gitz advised he was not following.

Alderson McClanathan stated to defer the voting on the floor tonight as they do not have Option B in front of them tonight.

Mayor Gitz stated you can make a motion to substitute Option B as discussed previously. You can also defer action.

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Aldersperson McClanathan stated he would prefer to defer action and have Option B in front of them.

Special Counsel Phillips proposed a motion to approve or reject and then a second motion to postpone this to the next meeting and that will automatically come up on the agenda of the January meeting that you specify.

Aldersperson Chesney asked if they couldn't just make a motion to refer this to committee and then bring up Option B at the next meeting.

Special Counsel Phillips advised it's not really on the floor until someone makes a motion to approve or reject. As a parliamentary rule, just a simple basic rule before you can start debating something you should make a motion to approve or reject, therefore it is on the floor and then there is a second and you debate it.

Aldersperson Miller made a motion to approve the copy that was given to council a little bit ago.

Mayor Gitz asked for clarification that she was making a motion to approve Option A that came from Committee of the Whole.

Aldersperson Miller advised yes.

Motion was moved by Aldersperson Miller and seconded by Aldersperson Chesney to approve 2015-53 for first reading. He stated council is now entitled to make a further motion to postpone consideration until the next meeting.

Aldersperson Klemm questioned if it is A that you want to bring up or the amended one.

Aldersperson Chesney stated in the past they just referred to council but if we have to do two motions then I think we just refer this to Committee of the Whole and then we just don't bring it up as Option A he stated he thinks they will have to bring up as Option B as amended at the next meeting.

Mayor Gitz stated that he felt they were getting tied up in parliamentary procedures that they don't need to.

Alderman Koester stated that he agrees with Aldersperson Klemm are we holding over original Option A or amended Option A.

Mayor Gitz stated the original Option A. They have not put on the amended fire department on which will be duly considered. He stated he recognized Alderman Chesney who has made a motion to refer this to Committee of the Whole, seconded by Alderman McClanathan. Motion prevailed with a voice vote without dissent.

## **RESOLUTION**

### **RESOLUTION #R-2015-68:**

#### **RESOLUTION TO AUTHORIZE AN AGREEMENT FOR LANDFILL GENERAL ENGINEERING BETWEEN THE CITY OF FREEPORT AND FEHR GRAHAM**

City Engineer Shaun Gallagher provided a written memorandum shown below and provided in the council packet. Shaun stated this was discussed at Committee of the Whole and this is our annual agreement for maintenance for Landfills #2/3 and #4 for approximate cost of \$205,240.00.

The memorandum dated December 9, 2015 stated

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"The 2016 proposal outlines the numerous activities that are required by our current permits with the Illinois Environmental Protection Agency (IEPA) for Landfills #2/3 and #4. In order for everyone to have a clear understanding of the value of this contract, we now request that each activity performed be broken out into a lump sum agreement per task. This is also done to outline the 3rd party lab fees, so that Council has a better understanding of the items completed by Fehr Graham and those expenses billed by the lab. Any activities included in this contract that are not performed or deferred to next year's contract, will not be charged to the City of Freeport. As I indicated last year, the outline of services provided in these contracts has been relatively consistent over the past few years, with various permit requirements are being completed while new requirements are added. I have broken out the historical fees provided in the attachment, outlining present and future spending within this annual contract. This proposal covers the required groundwater, leachate and gas monitoring at each landfill, along with continued inspection and annual reporting. The estimated value of this proposal is \$205,240.00 for the 2016 calendar year. At this time it is anticipated that these expenses will be paid using revenues received from the Transfer Station Lease. Additional maintenance expenses that are TIF eligible will be billed to the Lamm Road and West Avenue TIF as part of site improvements should they arise."

Mr. Joel Zirkle, Branch Manager of Fehr Graham spoke in regards to both landfills being closed, having been closed for a number of years now and they are heavily regulated. The proposal that you have before you is for our suite of annual services, largely related to sampling and testing of ground water and ground water monitoring wells. Each landfill still has existing permit to Illinois Department of Protection Agency. Not only do we have to collect that analytical data we also have to produce a series of reports that have to be submitted to the agency in order to conform with the city's current permit. Those are the very general tasks of monitoring, reporting and inspection. A few key items that are unique to this year is we have some monitoring wells that to seek to abandon that you are no longer using then the best thing to do is to work with Illinois EPA when they no longer allow use a well, get rid of it so you won't have to test it again. We try to advocate getting that done when the time comes. He stated he realizes this is a big ticket item that the city has to deal with annually and you do have a choice to not conform. There is the do nothing option but the risk the city would run is violations and extensive fines as well as getting in trouble with the Illinois and federal EPA. There are a number of activities in this proposal that could be conducted by city staff and he has discussed those with City Engineer but the biggest challenge is the city staff does not have time. This is landfill engineering, not rocket science, and relatively straightforward that involves time to get familiar with regulations.

The supporting documentation provided by Fehr Graham stated that they will provide various consulting activities required by the current permits for Landfill #2/3 and Freeport Landfill #4 for calendar year 2016. The Fehr Graham proposal outlines the activities that will be undertaken in 2016. These activities are statutorily required because of closed landfill and on page 4 it includes the following based on the amount of testing that needs to be performed at the two sites;

**Freeport Landfill #2/3**

Monitoring Well Sampling (Labor and Equipment) --- \$33,900.00  
Monitoring Well Sampling (Analytical) --- \$56,500.00  
Leachate Sampling (Labor and Equipment) --- \$2,200.00  
Leachate Sampling Analytical --- \$1,520.00  
FWSC Periodic Compliance Report --- \$1,850.00  
Leachate Recovery System Maintenance --- \$10,970.00  
Annual Report of the Effectiveness Of Corrective Measures --- \$6,500.00  
\*Annual Reporting for FMLF #2/3 --- \$0.00  
Inspection and Mowing --- \$5,250.00  
Well Abandonment---\$6,500.00  
\*Project Management and Meetings--- \$0.00

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**Sub-Total: \$125,190.00**

**\*Included with FMLF 4**

**Freeport Landfill #4**

Monitoring Well Sampling (Labor and Equipment) --- \$18,210.00

Monitor Well Sampling (Analytical) --- \$15,540.00

Leachate Sampling (Labor and Equipment) --- \$3,260.00

Leachate Sampling (Analytical) --- \$3,230.00

\*\*FWSC Periodic Compliance Report --- \$0.00

Gas Monitoring --- \$7,000.00

Inspection and Mowing --- \$3,020.00

Annual Monument/Stake Inspection --- \$600.00

Annual Reporting for FMLF #4 --- \$9,800.00

Assessment Monitoring Report --- \$6,510.00

Establish New Leachate Sampling Sig Mod. --- \$2,600.00

\*\*Well Abandonment --- \$0.00

Project Management and Meetings --- \$10,280

**Sub-Total: \$80,050.00**

**\*\*Included with FMLF 2/3**

**Total: \$205,240.00**

In the proposal, Mr. Zirkle noted the IEPA may have new requirements that are not detailed in this proposal, which will have to be addressed. Items that are not included in this proposal include:

- Leachate recovery system cleaning and repair oversight for FMLF #4. This work will be completed on a time and material basis as requested.
- Construction oversight and associated IEPA reporting for the FMLF #4 leachate collection system by-pass line. This work, if requested would be completed on a time and material basis.
- Repairs to leachate recovery system at FMLF #2/3
- Additional sampling that IEPA may require during the year.
- Addressing IEPA comments to significant modification and supplemental permit submittals.
- Addressing IEPA comments to operating permit renewal.

Alderson Brashaw asked if the well abandonment fee of \$6,500 included sealing that well.

Mr. Zirkle replied yes.

Alderson Miller asked City Engineer Shaun Gallagher if he would please note next year since this history is not as vital as it used to be that this be put out to bid next year and to have in advance.

City Engineer Shaun Gallagher replied that they have looked at the laboratory fees specifically and have never necessarily looked at the field operations portion. He will note that if that is what the council would like to do. There are always things that creep up on us and that come out of left field and he appreciates the knowledge of those that have been doing this for a long time in our corner. So barring any huge changes that might show up

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here in the 11<sup>th</sup> hour he will be glad to do that but will also keep them informed of things that come up because the contract may have to be amended if something comes up.

Mayor Gitz advised that this is not necessarily services that by law we can do by low bid. There is provision in Illinois law about professional services specific to architects and engineers to be done by qualifications. One of the reasons that Fehr Graham has regularly been awarded this contract is not that we have a preference with them but that they were the original consulting engineers of the landfill so they also have the institutional knowledge and ability to monitor the closure of that landfill. He stated he feels there is a shared desire on part of all to constitute as effectively and fairly as possible and to be aware of some limitations of what we can or can't do.

Aldersperson Klemm made a motion to approve Resolution # R-2015-68 as presented.

Mayor Gitz stated there are two things that need to be corrected. In Section 1 it references this "Ordinance" and should read "Resolution" and in Section 2 it states appropriated and should state approved. He takes that in the spirit of the motion to make those small changes.

Aldersperson Klemm agreed to the changes for the motion, seconded by Aldersperson Brashaw.

The motion prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, Chesney, Klemm.

Nays: None

**RESOLUTION #R-2015-69:**

**RESOLUTION OF AUTHORIZATION TO EXECUTE AGREEMENT WITH VIEVU SOLUTIONS FOR THE LEASE OF 16 BODY WORK CAMERAS, SOFTWARE, AND CLOUD STORAGE AND OTHER ACCESSORIES**

Chief Barkalow explained that this was discussed at the Committee of the Whole and to summarize one option was to do nothing, however he explained that he did not recommend that. He stated he believes this will provide a tremendous amount of transparency to the public, also to provide officer safety, not only in the physical safety of the officer but it is proven to reduce citizen complaints. It is also proven to dramatically affect the use of force incidents. We recommended partnering with VieVu and entering into a 3 year agreement with the bundle redaction software. He stated he wanted to remind the council that this isn't existing money, it is new money. This will start to come into this next budget and he will work with the Finance department into a different line item. He explained that this system meets their needs and fits their budget and they have done extensive research on this and they are not settling. They believe in the product and the software as well.

Aldersperson Brashaw explained to the public that they did go over this in detail in Committee of the Whole that it did increase safety, transparency, decrease complaints of force and she wanted to remind the council that yes, we will have to come up with line item for budget but overall it should lower the costs in litigation costs. Alderman Busker brought that question up to the Chief last time as far as what it costs to settle litigation and with the cameras they can prove what happened.

Alderman Klemm spoke of having pleasure this week of being interviewed by Officer Johannsen with one of your cameras and had a discussion about robbery at his church right before Christmas. He explained that he had a nice discussion with her about the way they worked and the feedback of the two different types and with everything that the Chief brought forward. Aldersperson Klemm made a motion to adopt Resolution R-2015-69, seconded by Alderman Busker.

Aldersperson Koester explained that even though he was not able to be present he thinks it is very nice improvement. In light of what just happened he hates to bring up another thing to be added to the budget but he feels it should be approved.

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Alderperson Ross asked for clarification of the lease and whether VieVu would be in charge of the maintenance for the equipment. Chief Barkalow confirmed that yes that is correct.

The motion for passage of Resolution R-2015-69 prevailed by a voice vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, Chesney, Klemm.

Nays: None

### **RESOLUTION #R-2015-70:**

#### **RESOLUTION IN SUPPORT OF CITY CENTRE FREEPORT PROPOSAL TO REVITALIZE THE DOWNTOWN TIF**

The following resolution was provided to the new council. :

**“WHEREAS**, In 1994, the City of Freeport designated a Tax Increment Redevelopment Area (TIF) in the Downtown Area, under which incremental increases in taxes due to redevelopment are accumulated in a TIF fund, and

**WHEREAS**, one of the General Goals of the Redevelopment Plan is to strengthen the market for existing retailers and enhance additional business development within the area and stimulate revitalization in the surrounding commercial, industrial and residential areas; and,

**WHEREAS**, one of the General Goals of the Redevelopment Plan is to retain and upgrade sound buildings that are compatible with the overall redevelopment plan; and,

**WHEREAS**, one of the Specific Objectives of the Redevelopment Plan is to institute an exterior commercial rehabilitation program which upgrades properties and provides a unifying design theme for the Downtown Freeport area, which includes creating programs that promote increased utilization of upper stories within many existing facilities as a means to increase business and residential activities and eliminate significant factors of vacancy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS** that the City hereby supports the proposed City Centre Freeport Plan.

**BE IT FURTHER RESOLVED** that the City Council will allocate in the 2016 Downtown TIF Spending Plan, \$120,000.00 for the proposed City Centre Freeport Plan.

**BE IT FURTHER RESOLVED** that in January 2016, there will be created the Downtown TIF Commission, to make recommendations to the Freeport City Council on the implementation of the City Centre Freeport Plan.

**BE IT FURTHER RESOLVED** if any section, clause or provision of this Resolution be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Resolution as a whole or any part thereof, other than the part so declared to be invalid, and this City Council expressly declares that it would have enacted this Resolution even with the invalid portion deleted.”

Mayor Gitz explained this is an amended version from what went in the packet on Thursday.

The memorandum dated December 17, 2015 from Mary Riordan, Attorney of Law is listed below.

“You have my opinion as the City of Freeport’s authority to enter into the proposed “Amended Agreement between the City of Freeport and the Northwest Illinois Development Alliance”

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("Agreement"). For the reasons outlined below, I am of the opinion that the City's execution of the Agreement would be a violation of the powers granted it by the Illinois Increment Allocation Redevelopment Act (65 ILCS 5/11 74.4-1 *et seq.*) ("Act"); an unlawful delegation of its Legislative and executive power to NIDA; and would constitute an *ultra vires* act (i.e., beyond the City's authority and therefore void).

"In reaching this conclusion, I have examined the following documents:

- The Illinois Increment Allocation Redevelopment Act (65 ILCS 5/11 74.4-1 *et seq.*);
- The Redevelopment Plan prepared by Kane, McKenna and adopted by the City on September 6, 1994; ("TIF Plan")
- The City Centre Freeport Downtown Revitalization Action Plan ("Centre Plan");
- The proposed Amended Agreement by and between the City of Freeport and the
- Northwest Illinois Development Alliance ("Agreement"); and
- Certain applicable statutes and case law.

### 1. Controlling Authority

Pursuant to Article VII of the Illinois Constitution, the City of Freeport is a home rule Municipality which has the authority to do anything not prohibited by Illinois Statute. However, a home rule municipality does not have the authority to take the ***ad valorem*** taxes levied by another taxing district and use it to pay for costs related to a redevelopment project. The sole authority for the City to do so is granted by the General Assembly ***vis a vis*** the Act. When the City decides to create a TIF district and use TIF funds; it must comply with the Act. Its execution of the Agreement would be beyond the scope of the City's authority.

### 2. Powers granted to City by the Act.

When a municipality adopts tax increment financing, a special allocation fund is created and the incremental taxes are deposited into the fund. Section 65 ILCS 5/11 74.4-4 of the Act enumerates the powers a municipality may exercise in spending the money in the fund and to implement redevelopment projects. Specifically, the Act grants a municipality the power to use tax increment revenue to

- (a) ***Make and enter into all contracts with property owners, developers, tenants,*** overlapping taxing bodies, and others necessary or incidental to the implementation and furtherance of its redevelopment plan and project.
- (b) Within a redevelopment project area, acquire by purchase, donation, lease or eminent domain; own, convey, lease, mortgage or dispose of land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality determines is reasonably necessary to achieve the objectives of the redevelopment plan and project. No conveyance, lease, mortgage, disposition of land or other property owned by a municipality, or agreement relating to the development of such municipal property shall be made except ***upon the adoption of an ordinance by the corporate authorities*** of the municipality. . . The procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids.
- (c) Within a redevelopment project area, renovate or rehabilitate or construct any structure or building, as permitted under this Act.
- (d) Install, repair, construct, reconstruct or relocate streets, utilities and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan.
- (e) Accept grants, guarantees and donations of property, labor, or other things of

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value from a public or private source for use within a project redevelopment area.

(f) **Acquire and construct public facilities within a redevelopment project area, as permitted under this Act.**

(g) **Incur project redevelopment costs and reimburse developers who incur redevelopment project costs authorized by a redevelopment agreement;**

### 3. Unlawful Delegation of the City's Authority

Without specific statutory authority, a municipality cannot designate its executive or legislative authority to a third party except in limited circumstances. In as early as 1869, the Illinois Supreme Court held that:

As a general rule, where power is conferred upon a municipal corporation to regulate any calling or business, **they are powerless to delegate a discretionary authority to others, or to an individual.** In creating such bodies, it is designed to aid the government in the preservation of good order, and to protect more effectually persons in the particular community from injuries and annoyances that cannot be so readily guarded against by the general laws of the State. And in conferring the power upon the corporate body, **it is with the intention that it shall be exercised by the body created, and in the mode prescribed, and any departure from such authority, or any attempt by the body to transfer their powers to others is unwarranted.** (*City of East St. Louis v. Phillip H. Wehrung*, 50 Ill. 28 1869 WL 5160 (Ill.) [emphasis added] See also *Will County v. Local 028 Will Cnty. Emp. Union, Am. Fed'n of State, Cnty, & Mun. Emp., AFL-CIO*, 79 Ill.App.3d 290, 297, 398 N.E.2d 139, 144 (3d Dist. 1979); (*Ligenza v. Village of Round Lake Beach* (1985), 133 Ill. App.3d 286; *Diversified Computer Services, Inc. v. Town of York* (1982), 104 Ill. App.3d 852.)

If the City entered the proposed Agreement, it would be delegating the authority granted to it by the Act, which a municipality may not do. Specifically, NIDA would have the authority to:

- enter into contracts for services and materials with no input or approval from the City.
- draft "adaptive reuse exemptions and amendments to the City's Building and Fire Codes and Ordinances;"
- analyze and streamline the Building Department's policies and procedures related to
- building maintenance and construction;
- determine if the City's water, sewer, electric, gas and telecommunication's infrastructure
- servicing the buildings in the Downtown TIF are adequate for redevelopment; and
- develop a streetscape design and cost estimate.
- The statement in the Agreement that makes this delegation most egregious is the provision in the Agreement that states, **"It is agreed the City is interested only in the results obtained by NIDA and for the purposes of this agreement,** NIDA is considered an independent contractor, and neither NIDA nor NIDA's employees shall be deemed employees of the City." This provision means that the City would have no input into the systems or processes that NIDA enacts to spend TIF Funds.

### 4. Unlawful Delegation of Executive Power.

The City's authority to promulgate and enforce building codes flows from the Illinois Municipal Code, including Article 8 (purchasing) Article 9 (local improvements) and Article 11 (health safety and welfare; planning and zoning). In entering into the Agreement, the City would also be delegating these powers to a private party. NIDA would determine which public improvements would be made and enter into contracts to have the work done. And again, the City could only question the results, not the means, which the City does not have the authority to agree to do. The Agreement requires the City to make a retroactive appropriation of funds. The Agreement,



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which is to be considered at the City's December 21st Council meeting, is effective January 1, 2015, and the City would be required to pay NIDA \$100,000 in TIF funds retroactively, for services that were not requested or approved, and with no reason to believe they have been performed. The City does not have the authority to retroactively date an appropriation of funds. The Agreement states that:

The Term of this Agreement shall be retroactive to January 1, 2015 and run through December 31, 2015 with a one year extension option which will automatically take effect, absent written notice by either party hereto 120 days prior to the expiration.

### 5. Duplication of Services

The City is required to provide the services that the Agreement proposes be delegated to NIDA. The City already has systems and staff in place, **and the legal authority**, to inspect buildings, make determinations as to remedial actions necessary and to enforce those recommendations. The City has a purchasing department that knows the limitations and requirements of the State Municipal and the City's Codes. It would be duplicative (as well as dangerous) to allow a private party to assume these tasks when the City is already obligated to do so. And, since the years remaining for the TIF District are limited, the construction of a duplicate system to provide duplicative services will be both expensive and time consuming.

### 6. The Act prescribes what authority can be delegated and how it can be done.

Section 65 ILCS 5/11 74.4-4 (k) of the Act authorizes the City to delegate the powers granted to it by the Act to an advisory commission that remains under the control of the City. The Act provides that a municipality may:

(k) Create a commission of not less than 5 or more than 15 persons to be **appointed by the mayor or president of the municipality with the consent of the majority of the governing board of the municipality . . .** The commission, **subject to approval of the corporate authorities** may exercise the powers enumerated in this Section. The commission shall also have the power to hold the public hearings required by this division and **make recommendations to the corporate authorities** concerning the adoption of redevelopment plans, redevelopment projects and designation of redevelopment project areas. (65 ILCS 5/11 74.4-4 (k))

### 7. Retaining Accountability while relinquishing Authority under the Statutes

Assuming, for argument's sake, that the City could enter into the Agreement, the City Council members would be giving away their authority to make decisions as to how to spend TIF dollars, but they would retain the accountability for how those dollars were spent. The City is bound by all types of limitations on its contracting powers – the City's purchasing Code, the Prevailing Wage Act, the Freedom of Information Act, and the requirement within the Act that the City report annually to the State Comptroller as to how the TIF Funds were spent, the names of vendors and amounts paid, the private investment made within the district, etc. NIDA would have no accountability as to how the public funds were spent but the City would. Under the Agreement, the City could only question NIDA's "end results." The City has never lost control over the use of TIF funds; even in its redevelopment Agreements with developers the City has always retained strict control as to how TIF funds are used, required accountability and reporting, and monitored compliance with all applicable law.

The proposed Agreement even delegates compliance with the Freedom of Information Act (5 ILCS 140/1) to NIDA. FOIA requires all public bodies to collect and maintain records for inspection by the public including, "all records relating to the obligation, receipt, and **use of public funds** of the State, units of local government, and school districts are public records subject to inspection and copying by the public. (5 ILCS 140/2.5). The Agreement proposes that, upon receipt of a FOIA request made to the City (since NIDA is not a public body), **NIDA**

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*shall review its records* promptly and produce to the City of Freeport within two (2) business days of contact from the City the required documents responsive to a request under the Act. The City would not make the determination as to which documents were subject to FOIA, but NIDA would. The City would remain responsible for FOIA compliance.

8. How the City can work with NIDA to Revitalize the Downtown in accordance with the Act and the TIF Plan.

The City must comply not only with the TIF Act, but with the Redevelopment Plan which was the basis for creating the TIF District. A structure can be devised that allows NIDA to have input into all the aspects of the Downtown revitalization effort so long as it complies with the Act and the TIF Plan. The TIF Plan adopted in 1994 assumed that the Downtown revitalization would be a collective effort. The TIF Plan states that the **City** would:

1. Coordinate redevelopment activities within the Downtown Freeport Area in order to provide a positive marketplace signal to the private sector;
2. Ensure the participation of the Downtown Freeport merchants and the community as a whole in all phases of redevelopment of the Downtown area;
3. The City, the Freeport Chamber of Commerce, the Downtown Freeport Association, the Freeport Economic Development Commission, private sector investors and others recognize the need for developing and Implementing a strategy for overcoming existing area deficiencies and lack of competitiveness with other Freeport and surrounding locations. The strategy **will be coordinated by the City** in conjunction with these other entities. The public investment required to accomplish this will be possible only if tax increment financing is adopted pursuant to the provisions of the Tax Increment Allocation Redevelopment Act, Illinois compiled statutes, Chapter 65/5-11-74.4-1, et. seq., as amended (the "Act"). Incremental real estate tax revenue generated within the RPA will play a decisive role in encouraging the needed private development. The Mayor can appoint, subject to the consent of the City Council, a 5-15 member commission to exercise the powers to use TIF granted to the City by the Act, so long as the final approval is controlled by the City Council. The commission could make recommendations as those improvements should be made, interview potential vendors and make recommendations, propose terms for providing assistance to developers and business to be included in a redevelopment agreement with the City, etc. However, the City Council must retain the final approving authority. And as stated above, the City is already required by the Illinois Municipal Code to provide these services with the limitations set forth in the Code. A third party would not be subject to those limitations, but the City would be accountable. Because of the limited time left for the TIF district, the appointment of a commission, which would then have to establish its operating procedures and based Court's ruling in the 2013 case, Hannah v. City of Chicago, even though the commission would be advisory, there would have to be "intelligible guidelines" on which the commission would base its recommendations. This could prove to be timely and unwieldy.

9. Amendments to the TIF Plan The Act also prescribes how and when a TIF Plan can be amended. If there is a proposed amendment to a Redevelopment Plan that:

- (1) adds additional parcels of property to the proposed redevelopment project area,
- (2) substantially affect the general land uses proposed in the redevelopment plan,
- (3) substantially change the nature of the redevelopment project,
- (4) increase[s] the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, (5) add[s] additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or
- (6) increase[s] the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the

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redevelopment project area, to a total of more than 10, shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.4-6 of this Act. 65 ILCS 74.4-5 (C)

All of these factors must be evaluated prior to taking any action that would amend or alter”

Alderman Busker made the motion to approve Resolution #R-2015-70, seconded by Alderperson Brashaw. The motion prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, Chesney, Klemm.

Nays: None

Also provided were the following resolutions based on suggested amendments in the proposal:

- Resolution to Authorize Agreement with Northwest Illinois Development Alliance
- Resolution to Approve A Tax Increment Financing District Fund Expenditure Plan – Downtown Redevelopment Project Area

There was no council action on the above two resolutions at this time.

### **RESOLUTION #R-2015-71:**

#### **RESOLUTION TO APPROVE A TAX INCREMENT FINANCING DISTRICT FUND EXPENDITURE PLAN – DOWNTOWN REDEVELOPMENT PROJECT AREA**

Mayor Gitz explained that the administration has asked that this be deferred for consideration to the next meeting. This was a projected allocation of spending funds in the calendar year 2016 and Ms. Reardon had indicated some issues that she would like to review. Clearly the spending plan for the proposed City Centre had \$120,000 towards the project. It is the council’s choice; we can have an extensive discussion tonight or we can try to fix some of the issues and figure out what are some of the priorities in light of City Centre and bring them back. He asked what the pleasure of council.

Alderperson McClanathan explained he appreciates the passage of the resolution and as long as we are not dealing with any time frames he stated he would be comfortable with the administration coming back with proposals.

Mayor Gitz explained that Item 12 will not be heard tonight and that we do not need a formal motion.

Alderman Chesney requested that it be noted that this would be brought before us at the January 4<sup>th</sup> meeting.

### **OTHER**

### **REPORTS OF DEPARTMENT HEADS**

#### **Community Development – none**

#### **Police**

Chief of Police Todd Barkalow provided information that Chief Miller had to leave as there was a fire that he had to command. Chief Barkalow explained that all 3 of the new squad cars had arrived and were at Bocker’s and that Mobile Electronics was currently beginning the install in one of the vehicles of the interior equipment needed and that should be ready after Christmas. Also, he provided an update about the weekend incidents in the downtown around Chicago and Main and Chicago and Stephenson. In that corridor you will see a stepped up police presence in that area.

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**Fire**

Fire Chief Scott Miller had no report due to having to leave the meeting to command a fire.

Aldersperson Chesney made a comment that there was a commitment that we would see a proposal on the commitment of the sale of the fire station. It was supposed to be brought to us.

Mayor Gitz explained the bids are out and they are ready to be published and they are working on a realtor. There are a couple of people that expressed an interest. He is not sure of the realtors role in this but will be following the regulations in bidding. The reason it wasn't sent out last week as it was prepared is he wanted special corporation counsel to get back for the final sign off.

Aldersperson Chesney asked if the strategy was to auction this off.

Mayor Gitz explained the strategy is to auction this in two ways; one is the complete property including the training facility and the second is with the retention of the training facility and have language in it that we have the ability to accept or reject any proposal. The Fire Chief has expressed that if the training facility can be retained that would be an important consideration. He explained we are moving along and everyone has their marching orders.

Aldersperson Koester expressed concern that a realtor wasn't retained earlier and why was the Fire Chief whose expertise lies in other areas tasked with working on this. He questioned why this wasn't put in the hands of a professional.

Mayor Gitz explained there are several moving parts on this and we were not prepared at that time to simply go to a realtor and say find us a buyer and thirdly wanting the comfort to test the market as to the actual value of this. Some people have expressed interest and some are willing to pay a market price and some are not. He explained the Fire Chief actually was in collaboration originally with the former finance director and legal counsel and with the medical leave it changed the dynamic and slowed things down so the Fire Chief to his credit took the baton and working with this did a lot of the leg work to put together this proposal and now legal will pass on the final product and it should be on the street soon.

**Water & Sewer/City Engineer**

City Engineer Shaun Gallagher provided an update that they have completed work this year on Harlem Avenue and that the water main is in and the sewer systems are connected. He explained that due to the wet conditions they cannot complete the sidewalks however they do have the aggregate base down. He explained that the east side of the street does have connectivity with the sidewalks from one end of the project to the other except for the gap where they crossed over. He explained there are limits to what they can complete this year until things dry out in the spring. He explained that he is in daily contact with our contractor to see where they may go next and they would like to complete as much of this as possible. The weather is cooperating for the underground work and some of the work might be completed as soon as January 5<sup>th</sup> as we currently do not have frost in the ground. He explained we have 6 miles of water main to do and he would like to get them done as fast as possible. He explained that whatever work they can get done in the winter months helps their crews out later on. He explained there are only so many shut downs which limits the amount of work they can do so we are talking about 3 water main contracts and they have to oversee about 4 different crews. It is a benefit to utilize the city staff as much as possible as it makes it cheaper for us in the long run.

He also advised council that as of this morning we have received all our Motor Fuel Tax payments up to date. He explained what is beneficial is that IML projected another downturn year and we are about 5% over last year's

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revenue to date. He explained it can certainly change but it can mean is maybe another \$20,000 to throw at road issues.

He also wanted to clarify in regards to Carnegie Library, that he did refer to another building and that building was the police station. He explained we are not looking at purchasing another property just looking at what we can do at the police station to assess their needs or help out.

**Finance**

Mayor Gitz explained that Duane Price could not be with us tonight. He advised he has had discussions with the auditors and it is the opinion of Mr. Price that we are finished with sufficient entries in the general ledger and we should be able to finish the audit. He explained the depreciation schedule is another issue that was left undone and that is now finished. He explained there was another issue of grants and reimbursements and thanks to our new grant coordinator a lot of that is now caught up. We have receipts of reimbursements of more than \$300,000 in the process. He explained that is the good news, the not so great news is the one grant chosen for the audit is the transit grant. We have a person who has asked to leave and he thinks they are probably going to have to hire some extra help to make sure all of those invoices and things from the Senior Center are in order. The other issue is to make sure we continue to work on the ledger. He explained that he has had discussions with 2 different accounting firms and by far the one that was most extensive in their help and the best financial arrangements is WIPFLI. He explained they have experience with the city and they are prepared to offer us help according to the level of services we need on our staff so we will not be paying for a general partner to do simple things. He explained we also had a person who was making entries in the general ledger and she took another position. We are now paying another person to do that so we are not paying accountants for data entry that we can do ourselves or with other help. He explained he will be providing a copy of the contract that he signed today with WIPFLI.

Aldersperson Chesney expressed concern if we are moving away from finance director type position and if we are, what is that long term look like and if we are not, why haven't we sought or posted that position locally to see what interest there might be. He explained it feels like we are doing certain layers of patchwork but it doesn't seem like we are getting to the core of the issue which is we have one full time person and a lot of temps and outside help and he doesn't feel we are firing on all cylinders.

Mayor Gitz explained that he has a different view of this process that he has run by every previous finance director that this city has had and also by our auditors and that is that he thinks we should hire a finance director based on the skill sets we need. He explained the skill sets he feels we need are not just a finance manager but a person who has excellent numbers and who can identify trends and analyze them. He explained we also need a person who is technologically savvy. He explained we have had discussions for the better part of the year about the Water and Sewer software and the city's general software and those systems are not merged and they should be. He spoke that the third thing he has done is contact one of our area banks who does a certain amount of financial consulting to municipalities and expressed that he wants to automate as many functions as we can and that they have offered to give us a list of things free of charge that they think should be automated and streamlined. We have a generic job description that we can put out there and get standard applicants which are a) the retiree who is looking for their final job b) some hot shot coming out of college or c) somebody in-between who has a lot of experience and fits our needs. He would like to hire with our approval a person that reflects the skill sets that we have identified now and going forward with the help of our auditors. He explained he thinks the skill sets we need ought to be identified and explained as tight as our budget we ought to be conscience of what is the personnel load and we can outsource or stream line some of these proposals. He explained he does not want to hire any more staff than we have to and that the staff we hire is going to have to be highly skilled to do the job.

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Alderman Chesney made a few observations of 1) missing 2 years of audit deadlines 2) being told we are not booking our grant money correctly and 3) that some of our accounts according to the City Treasurer are running negative balances. His concern isn't that we properly need to identify the role it is as that it has not been identified in 60 days. He looks at this as borderline crisis that after 60 days we should at least know what the resume of a candidate should look like. He asked don't you agree.

Mayor Gitz advised he does not agree and has been pretty clear about this from the beginning.

Alderman McClanathan explained he appreciates the long term and what it is going to look like but he would like to convey council primary concern short term is making sure we get our steps taken care of and not fall through the cracks. He asked for an explanation on where we are at so that we do not get behind in the process.

Mayor Gitz advised that we are getting caught up; the depreciation schedule is done, the grants are updated, most of the entries in the general ledger are done and we have been doing that with the help of our present and additional staff. He explained what this does is complete the process and give us additional financial fire power and expertise in meeting our short term gains and also preparing for transition to full time employment.

Alderman McClanathan asked for explanation on WIPFLI's role and what they will be providing for us.

Mayor Gitz advised they will supply whatever professional expertise we need and however many people we need for finishing the general ledger so that it is acceptable to the auditors. They will also give us supervision of other accounts including a water and sewer issue which has been long standing unresolved issue.

Alderman Klemm explained one of the things that is completely on task was to get somebody in from outside that is independent that will also take a different look at it. He stated he sees a little bit of frustration which he has some also but the main thing is that we need to keep on target and keep working towards getting somebody whether it takes a year to figure out just exactly who that person is. He explained he feels we are moving forward and looking at some independent options that are available to us. He spoke of people saying we can't do that but there are municipalities who farm out their accounting departments. He spoke of going along with doing what we are doing now for the short period but he wants to emphasize that everyone is concerned.

Mayor Gitz responded that there are three steps that he sees; identify every single working issue, putting our staff to work solving those problems, and finish the job. He also recognizes that some of the things we have needed for quite some time for whatever reason did not get done. He does not want to see that happen with the next person no matter who that is. He stated he takes it that this council is very budget conscience as is this administration so we can outsource some of these items and that ought to be taken into account in the personnel that we select. He stated he is dedicated in seeing that this software will give us better reports than we have had, which is not to say there is nothing wrong with these reports but we need to modernize our accounting system as well as do that throughout the entire organization. We need to have people who are really savvy and utilize that through our long term perfections. He stated that he believes that is a critical skill set.

Alderman Chesney spoke of the audit being due December 26 and asked when we can expect that to be complete.

Mayor Gitz replied that he has a date that he would like to have that done by but that he has no control over that and that is going to be up to the general partner of the auditing firm to tell us when they are coming back and what he has tasked Mr. Price with helping us resolve. He explained if they can come in and start this process right now we can probably be done in two weeks. He explained that they have to be satisfied that they have all of the things laid out that they want. He spoke of this being one of reasons that he wanted WIPFLI involved in this is

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because they have done our audits in the past so you have an accounting firm talking to the auditor and you will get there a lot faster with these two people talking to each other and getting this resolved. He stated that he wants this done ASAP as this has created a lot of headaches that none of us want.

Aldersperson Chesney again asked for an expectation of when this will be done.

Mayor Gitz explained he wants this done right now, we need the audit, we need it now and he explained it is not something he has direct control over as other people are doing this so it is a little hard to project. He explained that with the information that has been given to him that we are pretty close to getting this done.

Aldersperson Chesney then asked when we will have a finance director employed by the City of Freeport as that is something the Mayor does have control over.

Mayor Gitz stated we will have a finance director advertised position when the auditors tell me what their recommendations are.

**COUNCIL ANNOUNCEMENTS/NEW BUSINESS**

Aldersperson McClanathan expressed his thanks for the vote tonight in regards to the City Centre project and that there will be a lot of work needed to implement it and implement it well.

Aldersperson Ross expressed his concern regarding the caved in roof in the south east corner of the Modern Plating building that has damaged the fence around it and asked what action was going to be taken with that.

Mayor Gitz responded that the area has been secured and we are going through the steps to have that material taken off site.

Public Works Director Tom Dole responded that the fence is damaged but is intact and there are a few top rails that were sticking out and that has been resolved. He explained that the debris has not yet been taken away and stood the fence straight up but it is intact and it is secure, the gate is locked and there has been no breach in the fabric. He explained that there has not been a lot of time to get this done and at this point they are still not clear on the environment and the contamination levels. He explained that he is confident it is secure but it just doesn't look the greatest at this point.

Aldersperson Miller spoke of looking at part of #11 that didn't get discussed tonight with the downtown development TIF expenditure plan that somehow we have an amendment to 2016 expenditure plan to be able set aside \$5,000 for this project under the professional services just in case that project would get off the ground and they are able to acquire the rest of the funding that they need in order to get that project going. She explained she doesn't want us to get behind on that project but let's get in front of it and set aside that \$5,000 so that is possible. She explained she was unsure if that would need an amendment or if that is just something that can be put on the agenda and asked what the right procedure is.

Mayor Gitz explained that the right procedure here is if the will of the council is for \$5,000.00 for the project to discuss what TIF's that fits or if it does fit as a TIF expenditure. The downtown TIF district does not spin off as much money as some of the others so he will ask Ms. Reardon her thoughts about what as community wide project is a benefit to the downtown not exclusively limited to the downtown to see where it fits for allocation.

Aldersperson Busker spoke of being approached by a member of the Housing Commission regarding reappointments of three members.

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Mayor Gitz stated all of the members of the Housing Commission are under review at this time. He stated there are questions of residency raised regarding one of the members and explained that there will be appointments coming to the council. He wanted to express that there are no guarantees for anybody on any commission will automatically be reappointed just because they have been there. He spoke that in many cases we do well to find new people and mix them in with some of our veterans to develop new talent. He explained that if anyone had any questions they should contact him and if any member of the council had any recommendations they too should contact him. He stated he had met many talented people at Leadership Development and that he does not make appointments on who knows who or what their political affiliations are.

Aldersperson Brashaw wanted to express thanks for everyone working with City Centre project and wanted to mention to the Chief some constituents expressed concern about extremely fast traffic on Greenfield just south of Stephenson there are children playing on the corners and of walking to and from school with speeding traffic. She advised there will be no Neighborhood Watch meeting this month. She wanted to recommend that all constituents watch homes in their areas as there have been a number of break-ins this month and several suspicious people in the Stephenson and Lincoln area walking door to door sometimes representing themselves with a church group and at times ask if they can come into homes. She explained to watch your house, watch your neighbor's houses, especially if someone is gone.

Mayor Gitz added to that observation that today someone had come to the office and said they had received a call from the IRS with a special number regarding a payment and the Police Chief confirmed this was a sham.

Aldersperson Koester spoke of another similar sham where he received a call stating they were from Microsoft in regards to his computer sending them a signal and he needed to call and get on website to fix his computer. He spoke of requesting several months ago to reconvene the Building Commission to review ordinances and fees for permits and such and asked for status.

Mayor Gitz responded that he talked to the chairman and two of the members and they will launch in January. He expressed that he felt some of the City Centre proposals ought to be of interest to them as well.

Aldersperson Koester spoke of the need to standardize fees. He spoke of having spoken to Dave Young about recent committees that he had formed that he stated Mr. Young had sent an email to you that he would have to appoint Aldersperson Koester to the committee. He asked if he had received that.

Mayor Gitz advised he would have to check his emails.

Mayor Gitz advised it is highly desirable to have council on these committees maybe, even more than one.

Aldersperson Koester explained that he was very much looking forward to next year and working on the budget in light of what was passed tonight with the tax levy. He explained that he feels it will be very interesting to hold the line with no tax increase and time to begin to discuss what services are going to be cut. He stated that he wanted to wish everybody a Merry Christmas and a Happy New Year.

Aldersperson Chesney spoke on wanting to recognize Alderman McClanathan for the incredible work he did on the Freeport City Centre and stated that many of the people at home do not know the amount of hours he has put into this while balancing that with home life. He also wished everyone a Merry Christmas and Happy Holidays and stated he felt a lot had been accomplished in 2015 and there is even more to look at in 2016.



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Alderman Klemm wished everyone a Merry Christmas and a Happy New Year and wanted to remind everyone as they take their big screen TV's out of their boxes to not put the boxes in front of your house. He stated make sure you maintain model and serial number.

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

Lynn Folgate, 3551 W. Stephenson Street, Freeport, Illinois, spoke in regard to the Moose Legion and they are the guys that get things done. He spoke about the activities of the Moose Legion which was established in 1913. They have dropped to 400 members and he spoke about dues. He gave tribute to members of the Moose Legion.

Tom Teich, Freeport, Illinois, wished council members and Mayor Gitz a Merry Christmas. He invited Mayor Gitz to a potluck on January 2<sup>nd</sup> at St. Mary's Church. He asked about the demolition of a property known as Bookies Tap.

Rod Holtz, 325 W. Moseley, he commended the Water & Sewer crew in his neighborhood who handled a situation of water in the basement in a kind and compassionate manner. He stated we need more people like this in the town of Freeport. He named those members of the Water & Sewer crew who performed a job well done including Dave Stichter, Mike Rust, Ken Milliken, Kyle Neels, Dave Winnekins, Doug VanHorn, Fred Wedigs, and Todd Bartels.

Upon a motion duly made and seconded, the meeting was adjourned at 8:45 p.m.

*s/ Diane Kahly*

Diane Kahly  
Deputy City Clerk