



## City Council

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

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### MINUTES

### REGULAR MEETING

MONDAY FEBRUARY 1, 2016 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 James L. Gitz with a quorum being present at 6:00 p.m. on Monday, February 1, 2016

#### **ROLL CALL**

Present on roll call: Mayor Gitz and council members Tom Klemm, Peter McClanathan, Art Ross, Jodi Miller, Patrick Busker, Mike Koester, Sally Brashaw 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 Busker.

#### **APPROVAL OF AGENDA**

Alderperson Koester moved for approval of the agenda as presented, seconded by Alderperson Miller. Motion prevailed by voice vote without dissent.

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

There was no one signed on the sheet for public comments on agenda items.

#### **MINUTES**

The minutes from the regular meeting on January 19, 2016 were presented for approval. Alderperson Brashaw moved for approval, seconded by Alderperson Koester. Motion prevailed by voice vote without dissent.

#### **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. [Consent Agenda PDF](#)

- A. Approval of Resolution R-2016-04: Resolution to Co-Sponsor Memorial Day Parade with Allied Veterans Council
- B. Approval of Motor Fuel Tax Fund Bills Payable (Register #078) -- \$93,334.92
- C. Approval of Water & Sewer Bills Payable (Registers #482) --- \$252,196.50
- D. Approval of Payroll for pay period ending January 23, 2016 --- \$406,167.65
- E. Approval of Finance Bills Payable (Registers #478, 479, 480, 481, wire pmt) -- \$486,250.24

Alderperson Busker moved for approval of the consent agenda, seconded by Alderperson Brashaw. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Koester, Brashaw and Chesney (8)

Nays: none

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**RE-APPOINTMENTS TO WATER AND SEWER COMMISSION**

Mayor Gitz requested leave of council to hear the reappointments for the Water and Sewer Commission in one action item. Council acknowledged affirmatively. The following reappointments were read aloud:

Effective immediately, Mayor James L. Gitz hereby makes the following reappointments:

- Reappointment of Mark Winter to the Board of Water & Sewer Commissioners through November 30, 2018.
- Reappointment of Jim Medendorp to the Board of Water & Sewer Commissioners through November 30, 2018.
- Reappointment of Christopher Schneiderman to the Board of Water & Sewer Commissioners through November 30, 2018.
- Reappointment of Bobbi Yount to the Board of Water & Sewer Commissioners through November 30, 2020.

Mayor Gitz noted the above stated appointments are residents of the City of Freeport.

Aldersperson Busker moved for approval of the consent agenda, seconded by Aldersperson Ross. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Koester, Brashaw and Chesney (8)

Nays: none

**RE-APPOINTMENTS TO BUILDING COMMISSION**

The following reappointment was read aloud; "Effective immediately, Mayor James L. Gitz hereby makes a reappointment of Stan Zuravel to the Building Commission through April 30, 2019."

Aldersperson Klemm moved for approval of the consent agenda, seconded by Aldersperson McClanathan. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Koester, Brashaw and Chesney (8)

Nays: none

**ORDINANCES -- SECOND READING**

**2<sup>nd</sup> READING OF ORDINANCE #2016-07:**

**An Ordinance Directing the Sale of Surplus Real Estate Containing the Vacant Fire Station Located at 1819 South West Avenue in the City of Freeport, Illinois**

The first reading of the ordinance was held on January 19, 2016. A motion to adopt was given by Aldersperson Busker, seconded by Aldersperson McClanathan and it was automatically laid over to tonight's meeting.

Upon the second reading, Special Counsel Phillips explained that we had originally planned for the bids to be opened on March 7<sup>th</sup> City Council Meeting and we can still make that deadline as long as the first publication notice is published on or before February 7, 2016. We are hoping to publish by February 4<sup>th</sup> so we will have time to meet the statutory deadlines. The first publication must be no less than 30 days prior to the day provided in the notice for the opening of bids.

Aldersperson Ross asked about the loss of a training facility. Mayor Gitz explained that the plan is to bid this in alternative for the entire property including the training facility and then an alternative bid to separate the

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property with the training facility being retained by the City. So depending on how those bids come out it is conceivable to divide that property and we will need a permanent easement which would be on the north side of access to it. The idea is to give the council some alternative so they can look at it and determine which the best alternative is.

Aldersperson Koester spoke about his concerns for selling the property because we need to keep the training facility for use by both the Fire Department and the Police Department. He stated we have a 50-50 chance to no longer having a training facility when we sell that property. He spoke about the reimbursement of training by the State Fire Marshal and that facility is also used as a pump testing and to bring something in to do that it is going to be expensive. He recommended tabling the ordinance until we know for sure what we are going to do with the training facility.

Aldersperson McClanathan stated we are bidding in the alternative either with or without keeping the training facility. He stated there is nothing binding upon receipt of the bids that the council will still have the option to decide how to go forward. Mayor Gitz stated we can decide at that time how to proceed forward based on the bids. Mayor Gitz stated there was a bidding process once before on this property and there were no takers at the time. He spoke about the parties that have expressed interest and we should at least see the bids.

Aldersperson Klemm spoke about the training facility and asked how much money is received for the training from other people for use of the facility. Aldersperson Brashaw stated that Fire Chief Miller has those figures.

Fire Chief Miller stated that Fire Marshal's office received a reimbursement for testing and training in the amount of \$9,400 and that amount was not part of the Fire Department budget and was placed into the corporate fund. He stated today the training hours were tabulated for the year and the amount that will be forwarded for reimbursement to the State Fire Marshal equates to \$5,400. Some of those dollars reimbursed are for outside training as well as inside training. He stated to address the aspect of what the City is earning from other outside departments that has not been a revenue source from outside departments. He clarified there was some use in the past for the pump testing.

Aldersperson Brashaw stated the council members are sensitive to retain this training facility and we have a first right of refusal on any offer. Most of us want the training facility to stay where it is at. She explained that at the Committee of the Whole it was discussed having two sales packages and having the access granted and if needed that could be written into the contract.

Aldersperson Chesney stated we are going out to see what the market is doing and once we receive the numbers we will weigh those options and make the decision. We need to know what the market is because it has not been tested in a while. If we stop now it would be speculation and that is not a good move.

Aldersperson Koester asked where the MABAS equipment is stored. Fire Chief Miller state the MABAS equipment is stored at the airport and there is no cost to the City. Fire Chief Miller stated the arrangement is a temporary arrangement. Aldersperson Koester stated we need to take those costs into consideration. Aldersperson Chesney asked who owns the airport. Mayor Gitz stated it is owned by the City.

Upon no further discussion, Mayor Gitz requested a roll call vote to approve Ordinance #2016-07. Motion prevailed by a roll call vote of;

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

Nays: Koester (1)

Ordinance #2016-07 was passed.

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**ORDINANCES -- FIRST READING**

**1<sup>st</sup> READING OF ORDINANCE #2016-10:**

**Special Ordinance for Variation Permit or Amendment of Codified Ordinances of Freeport, Illinois  
(version dated 01/28/2016)**

A petition was filed by Fraternal Order of Eagles Aerie #679 for the property located at 1200 West Galena Avenue, Freeport Illinois (PIN 18-13-25-383-023) for approval of a special use permit under Section 1252.01(b)(10) "Restaurants with outdoor serving areas; however, if alcoholic beverages are to be served, such restaurant must be in compliance with Section 806.17", per 1252.05(b)(1) (B-3 Commercial and Wholesale Business District) of Chapter 1252 (Business Districts) of the City of Freeport Codified Ordinances to allow the sale of alcoholic beverages in an outdoor restaurant area in a B-3 Commercial and Wholesale Business District Zoning Classification. This ordinance was unanimously recommended to council by the Planning Commission in their meeting held on January 7, 2016 and there were no written objections filed on the petition therefore council may take final action this reading.

Special Counsel Phillips explained at the Planning Commission meeting there was a presentation made by the applicant which indicated how it intended to utilize this special use permit. He placed into the ordinance those statements into the Special Conditions and Provisions under the document marked as Exhibit B as follows:

1. The Applicant shall install the outdoor restaurant area in the form of a deck only (hereinafter referred to as the "deck") on the west side of Applicant's current main building and said deck shall face North Warren Avenue.
2. Applicant shall construct or cause the construction of the only entrance to the deck through Applicant's current main building, but Applicant shall construct or cause the construction of an emergency "out-only" exit from said deck through the passage preclusive fence surrounding said deck.
3. Applicant shall not erect or install nor allow the erection or installation of any external speakers on or abutting said deck.
4. Applicant shall construct or cause the construction and operation of the deck only as required by Section 806.17 of the Codified Ordinances of the City of Freeport, as amended.

Special Counsel Phillips reviewed each of the above stated special conditions. He met with Mr. Staben, the chairperson of the Planning Commission, and recommended in the future if the Planning Commission wishes to make those they should make a motion and a second to specify what special conditions should be attached and they should relate to what they heard from the applicant or from testimony heard by the Planning Commission.

Aldersperson Miller asked for clarification on Exhibit A and Exhibit B and asked why it prohibits speakers. Mayor Gitz stated that because this is in a residential district, it is common to place that in the ordinance and this is one of the findings of fact that they made. It does not mean that every application will have the same findings of fact but they are particular to the location which is why often a special use permit is required in these circumstances.

Aldersperson Miller asked if the Eagles Club thought not being allowed to have outdoor speakers would be a hindrance to them. Mayor Gitz stated no.

Mayor Gitz reminded council that the discussion needs to be reflective of the discussion at the Planning Commission.

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Aldersperson Brashaw stated she represented the council at the Planning Commission meeting and she did hear the Planning Commission findings of fact and one findings of fact with noise was because it is in a residential neighborhood they must restrict this to not to change the enjoyability of that neighborhood. She stated that was why it was given as a finding of one of the facts. Aldersperson Brashaw stated that another findings of fact was they stated that they were only going to incorporate the space used in the old original alleyway so they are not encroaching on someone else's territory or space.

Community Development Director concurred with Aldersperson Brashaw's summary that the Exhibit B special conditions were tailored to this particular location.

Aldersperson Klemm moved for approval of the ordinance, seconded by Aldersperson Brashaw. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8)

Nays: none

Ordinance #2016-10 was passed.

**1<sup>st</sup> READING OF ORDINANCE #2016-11:**

**An Ordinance Amending Various Sections of Chapter 868 (Taxicabs) Of The Codified Ordinances Of The City Of Freeport**

Mayor Gitz stated this ordinance was recommended to council by the Committee of the Whole. There was a discussion on two issues as to what the role of the local office is and what the disqualifying elements are for a taxi driver. Mayor Gitz referred to section 868.12 criminal convictions and stated Special Counsel has worked with the Chief of Police and made changes per their recommendations.

Provided below is the section 868.12 as presented as of February 1, 2016:

**"868.12 Criminal Convictions.**

**(A) Taxicab License.**

(1) If an applicant, any general or limited partner of a partnership applicant for a Taxicab License, a corporate applicant for such License or any of its officers or directors, has been convicted of a felony based upon his, her or its conduct or involvement in such taxi business activity or similar business [as the term "felony" is defined by 720 ILCS 5/2-7, as amended, or any similar offense under the laws of any other State, the Federal Government or any other nation], within the ten year period immediately preceding the date of filing of said application, then such applicant shall not be eligible for the issuance or re-issuance of a taxicab license.

(2) Additionally, such an applicant shall not be eligible for a Taxicab License if the applicant(s) has been convicted of a felony or misdemeanor unrelated to his or her conduct or involvement in taxicab business activity or similar business activity, which felony or misdemeanor involves any of the following criminal offenses within the time period immediately preceding the filing of the application for Taxicab License as listed below;

(a) Unlawful possession with the intent to deliver: any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*), as amended from time to time; or cannabis, as defined in the Cannabis Control Act (720 ILCS 550/1 *et seq.*), as amended from time to time; or an

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- intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 *et seq.*), as amended from time to time, within the past ten (10) years,
- (b) Unlawful possession of any controlled substance, cannabis or intoxicating compound, within the past five years,
- (c) Criminal sexual assault and criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code 720 ILCS 5/1-1 *et seq.*, or any like offense of another state or country, within the past ten (10) years,
- (d) Any offense involving violence against another person or threatened violence against another person under the Illinois Criminal Code 720 ILCS 5/1-1 *et seq.* or any like offense of another state or country, with the past ten (10) years, or
- (e) Any offense involving moral turpitude, including, but not limited to any offense involving the misapplication, misappropriation or misuse of funds of another person, within the past five years.

(3) An applicant(s) shall not be eligible for the issuance or re-issuance of a Taxicab License if he/she/it been convicted of a misdemeanor based upon his/her/its conduct or involvement in taxicab business activity or similar business activity within the past five years.

(B) Taxi Driver's License. Any person who has been convicted of any forcible felony criminal offense as defined by the laws of the State of Illinois or any similar offense under the laws of any other State, the Federal Government or any other nation, shall not be eligible for a taxi driver's license from the City and shall not drive a taxicab within the City. Additionally, any applicant for a Taxi Driver's License shall not be eligible for the issuance ore renewal of said Taxi Driver's License if said person has been convicted of any of the following criminal offenses under the laws of the State of Illinois, or any similar offense under the laws of any other State, the Federal Government or any other nation:

- (1) Unlawful possession with the intent to deliver: any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*), as amended from time to time; or cannabis, as defined in the Cannabis Control Act (720 ILCS 550/1 *et seq.*), as amended from time to time; or an intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 *et seq.*), as amended from time to time, within the ten (10) ~~five (5)~~ year period immediately preceding the filing of said Application;
- (2) Unlawful possession of any controlled substance, cannabis or intoxicating compound within the ten (10) year period immediately preceding the filing of said Application;
- (3) The offenses of criminal sexual assault and criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code 720 ILCS 5/1-1 *et seq.*, within the ten (10) ~~five (5)~~ year period immediately preceding the filing of said Application;
- (4) Any offense involving violence against another person or threatened violence against another person under the Illinois Criminal Code (720 ILCS 5/1-1 *et seq.*), within the ten (10) ~~five (5)~~ year period immediately preceding the filing of said Application;
- (5) Any offense involving moral turpitude, including, but not limited to any offense involving the misapplication, misappropriation or misuse of funds of another person within the five (5) year period immediately preceding the filing of said Application;
- (6) The offense of driving under the influence of a controlled substance, cannabis or an intoxicating compound under Illinois law (625 ILCS 5/11-501 *et seq.*), as amended from

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time to time within the five (5) year period immediately preceding the filing of said Application;

(7) A second or subsequent conviction of the offense of driving under the influence of a controlled substance, cannabis or an intoxicating compound under Illinois law (625 ILCS 5/11-501 *et seq.*), as amended from time to time within the ten (10) year period immediately preceding the filing of said Application;

(8) The offense of reckless driving under Illinois law (625 ILCS 5/11-503 *et seq.*), as amended from time to time within the five (5) year period immediately preceding the filing of said Application;

(9) The offense of aggravated fleeing to elude or attempted aggravated fleeing to elude under Illinois law (625 ILCS 5/11-204.1 *et seq.*), as amended from time to time within the five (5) year period immediately preceding the filing of said Application;

(10) The offense of fleeing to elude or attempted fleeing to elude under Illinois law (625 ILCS 5/11-204 *et seq.*), as amended from time to time within the five (5) year period immediately preceding the filing of said Application; and

(11) The offense of Leaving The Scene of A Motor Vehicle Accident Involving Death Or Personal Injuries under Illinois law (625 ILCS 5/11-401 *et seq.*), as amended from time to time within the five (5) year period immediately preceding the filing of said Application.

(C) Ineligibility For Taxi Driver's License Based On Criminal Convictions Or On Registration Status. An applicant shall not be eligible for a Taxi Driver's License if said applicant, ~~at the time of the filing of said Application, was ever~~ is registered in the:

- (1) Illinois Sex Offender database or similar database in another state or country, or
- (2) Illinois Murderer and Violent Offender Against Youth database or a similar database in another state or country.

(D) Rehabilitation of Applicants. Notwithstanding anything to the contrary stated above, an applicant with an otherwise disqualifying criminal conviction or registration status shall be eligible for a Taxicab License and/or a Taxi Driver's License if the City's License Officer first determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Police Chief's investigation.

(E) Restriction on Employment. No Taxicab Licensee shall knowingly employ or continue the employment of any person as a Taxi Driver who is not eligible for a Taxi Driver's License for any reason, including but not limited to being convicted for any of the disqualifying criminal convictions listed above or for being required to register on either of the databases listed in Paragraph (C) above.

(F) When this Section refers to a period of years for a criminal conviction which disqualifies an applicant from being issued or holding a Taxicab License or a Taxi Driver License under this Chapter, said period of years shall begin on the later of (1) the date of conviction for said criminal offense and (2) the date of the applicant's release from penal incarceration based upon said conviction."

Mayor Gitz stated he is not saying that council needs to take this to first reading tonight and recommended Special Counsel Phillips review the changes.

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Special Counsel Phillips explained he met with Chief of Police Barkalow and Lieutenant Klosa and together they recommend the time periods listed in the section above. They doubled the time for disqualifying applicants from five years to ten years for a drug conviction in paragraph (A) (1) and also in various other sections as well. This was doubled for any crime that was a threat of violence under the Illinois Criminal Code for a ten year prohibition. He also clarified by adding paragraph (F) that the period of years for a criminal conviction which disqualifies an applicant from being issued or holding a Taxicab License or a Taxi Driver License under this Chapter, said period of years shall begin on the later of (1) the date of conviction for said criminal offense and (2) the date of the applicant's release from penal incarceration based upon said conviction.

Special Counsel Phillips stated there is a section that the Chief of Police has specifically asked to have added the words "forcible felony" which is a category of crimes as defined under the Illinois Criminal Code and he did not include that wording because he used the wording from another municipality but to make it clear he would like to be able to add that wording in as requested by the chief in Section (B) (4).

Special Counsel Phillips explained that it was recommended to have a local office within the area and they agreed that 35 miles is sufficient and this amount was chosen by measuring to the east side of Rockford and this also includes areas to the west, north and south within 35 miles. Chief Barkalow recommended the statement for the local office to be within 35 miles. He explained any further would make it more difficult to have a face to face conversation or have a meeting if necessary.

Chief Barkalow recommended having reference to forcible felony included as part of 720 ILCS 5/2-8 included as part of the ordinance.

Alderman McClanathan noted his thanks for the changes in the ordinance from the Committee of the Whole meeting and he asked on the timing for approval of the ordinance. Mayor Gitz stated we can probably take this to a first reading at this meeting.

Alderman Chesney referred to paragraph D where it refers to the rehabilitation of an applicant and asked if based on the wording whether a sex offender could be a taxi cab driver. Special Counsel Phillips stated the wording used was taken from other municipalities if an applicant shows that they have been sufficiently rehabilitated after so many years, and then they can still grant a license technically under the terms of the ordinance. He stated that similar wording for rehabilitation is made part of the liquor code.

Alderman Chesney recommended changing the wording so that anyone that commits a sexual act as described in this ordinance are ever truly rehabilitated and he would be very concerned about having item D where we feel like we are protecting the public against sexual predators where in fact with a stroke of a pen someone could still obtain a license. He explained who uses taxi cabs as 1) those who can't afford a car 2) those that are impaired and can't drive or 3) those who need a ride to an airport and drivers would know they are gone from their houses. He stated has the same concerns for rehabilitation for a drug dealer.

Alderman Miller stated she appreciates the wording that disqualifies a person on the Illinois Sex Offender list or on the Illinois Murderer and Violent Offender Against Youth list can never obtain a taxi license. She asked for clarification of being on a list or convictions. Special Counsel Phillips explained there are two different lists with one being those that on the list for being a predator or serial rapist who has been convicted and that is a life time registration requirement. He explained there is a separate list that is only for ten years and that is for people who for an example a 17 year old boy has sexual relations with his 15 year old girlfriend and is convicted of a sexual offense because the woman is under the age of consent. Special Counsel Phillips explained they would be on a separate list and would be required to register for a period of ten years.



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Aldersperson Miller asked why on page 6 under paragraph (c) it removed the requirement for fingerprinting. Chief Barkalow stated he recommends that section to be left in the ordinance and he would like to have the applicant have to come in for fingerprinting if they are to review the background for convictions of an applicant based on the ordinance as now written. He recommended placing that section back into the ordinance.

Aldersperson Klemm asked how this would affect Pretzel City Transit or that other cab company running around the City. Mayor Gitz stated it would not affect the Pretzel City Transit. He stated it is crafted to not apply to the airport livery system. It is styled as a taxi or livery within the City and they would have to apply.

**Aldersperson Koester made a motion to move this forward the ordinance to the next meeting for approval with the recommended corrections in place. Mayor Gitz requested Aldersperson Koester to itemize those corrections. Aldersperson Koester stated the first item would be put back in the fingerprinting requirement and the other one would be to add the forcible felony disqualification.**

Aldersperson Klemm stated he did not think we finalized the sex offender or the drug dealer. Aldersperson Chesney stated that we did not.

Mayor Gitz stated we will include that as a separate item. Mayor Gitz stated what we try to do is borrow from best practices of other cities.

Mayor Gitz stated there is a motion to take this to first reading with certain expected amendments to be a part of this. He asked if there are any additional comments to convey them to Special Counsel Phillips.

Special Counsel Phillips asked for clarification to the reference to the sex offender and drug dealer in terms of the wording for the rehabilitation. Aldersperson Klemm asked for guidance from Chief of Police Barkalow to make it as tough as we can.

Chief Barkalow asked to be able to read aloud the definition for a "forcible felony".

Aldersperson Chesney discussed his concerns for the section for the rehabilitation of applicants and he suggested that the paragraph be stricken all together if someone was a sexual predator or on the sex offender list. He recommended removing item D.

Mayor Gitz recommended distinguishing which things can be set aside. He noted there are things in life there are special circumstances that would argue inequity from the standard.

Aldersperson McClanathan recommended that language say that anyone ineligible referred to in (C) (1) or (C) (2) above is not eligible for rehabilitation and that could strike a balance. Mayor Gitz stated we will work with that and send you suggested amendments.

Aldersperson Brashaw read aloud (C) (1) or (C) (2) and noted the wording is already in there to say the applicant is not eligible. She read aloud: "(C) Ineligibility For Taxi Driver's License Based On Criminal Convictions or on Registration Status. An applicant shall not be eligible for a Taxi Driver's License if said applicant, ~~at the time of the filing of said Application, was ever~~ is registered in the:

- (1) Illinois Sex Offender database or similar database in another state or country, or
- (2) Illinois Murderer and Violent Offender Against Youth database or a similar database in another state or country."

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Aldersperson Brashaw also noted that the wording contained in paragraph D says; "Notwithstanding anything to the contrary stated above, an applicant with an otherwise disqualifying criminal conviction or registration status shall be eligible for a Taxicab License and/or a Taxi Driver's License if the City's License Officer first determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Police Chief's investigation."

Aldersperson Brashaw requested to be able to hear the ILCS "forcible felony" definition and noted that may automatically remove 99% of the persons they are worried about.

Aldersperson Koester asked how much we can restrict without out there being legal issues. Special Counsel Phillips explained there is a law review article that talks about cities that try to prevent people from driver's licenses based on collateral consequences with prior convictions and there are court cases that have thrown out. He reviewed state anti-discrimination information. He stated at this point he cannot say where the line is drawn without doing further research. He explained that a person who claims they are discriminated against can have their attorney fees paid for if they find they have substantially prevailed.

Chief Barkalow read aloud the definition for a "forcible felony" (720 ILCS 5/2-8) (from Ch. 38, par. 2-8) Sec. 2-8. "Forcible felony". "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnaping, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual. Chief Barkalow stated if we disqualify someone based on the definition of a forcible felony or some of the drug convictions we would very simply wrap that up pretty tight.

Mayor Gitz asked if we had a motion and a second. City Clerk Zuravel noted there was a motion by Aldersperson Koester. Aldersperson Brashaw seconded the motion.

It was asked by Aldersperson McClanathan if a discussion item can be placed on the Committee of the Whole. Mayor Gitz agreed and stated it would be placed as a discussion item. Council acknowledged in agreement.

**1<sup>st</sup> READING OF ORDINANCE #2016-12:**

**An Ordinance Amending The Boundaries of the Joint City of Freeport – County of Stephenson Certified Enterprise Zone (*expansion of Berner Food & Beverage, LLC*)**

Dave Young of Northwest Illinois Development Alliance presented the ordinance.

The ordinance as presented stated the Freeport/Stephenson County Enterprise Zone Committee has requested that the City of Freeport, the County of Stephenson, the County of Jo Daviess, the City of East Dubuque and the Village of Hanover consider the expansion of the said Enterprise Zone by 10 acres, more or less, of contiguous territory. The State of Illinois Department of Commerce and Economic Opportunity, hereinafter referred to as "DCEO," has agreed to expand the total size of the Enterprise Zone from its current 10.4449 square miles to 10.4605 square miles if the proposed expansion is granted by the Stephenson County Board, the Freeport City Council, the Jo Daviess County Board, the City of East Dubuque and the Hanover Village Board. Berner Food & Beverage, LLC, a private-for-profit contract manufacturer of Food and Beverage products employing 306 workers seeks an enterprise zone expansion to construct a consolidated, state-of-the-art, 300,000 sq. ft. warehouse/distribution facility to improve the operating efficiencies and costs of its (2) abutting manufacturing plants. This expansion will include the construction of a new \$25.0 million facility and the installation of \$10.0

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million in new capital equipment. The expansion of Berner Food & Beverage, LLC's facility will improve its competitive position in a highly competitive segment and will allow and assist the company to successfully expand and retain the jobs currently staffing their leased facilities.

Aldersperson Koester moved for approval of the ordinance on first reading, seconded by Aldersperson Miller. The ordinance was automatically laid over to the next meeting.

**1<sup>st</sup> READING OF ORDINANCE #2016-13:**

**An Ordinance Amending The Boundaries of the Joint City of Freeport – County of Stephenson Certified Enterprise Zone (*realign boundaries of property and consolidate PIN for JJ Ventures*)**

Dave Young of Northwest Illinois Development Alliance presented the ordinance. The ordinance as presented stated JJ Ventures is the owner of a shopping center development at the southeast corner of West Avenue and Youngs Lane within the corporate boundaries of the City of Freeport and seeks to realign the boundaries of its properties and consolidate the property identification numbers of its parcels. JJ Ventures seeks expansion of the City of Freeport, the County of Stephenson, the County of Jo Daviess, the City of East Dubuque and the Village of Hanover Joint Enterprise Zone to accomplish said realignment and consolidation. This City Council hereby finds that this proposed expansion of the Enterprise Zone as described on the attached map and legal description meets all the requirements of State law. If the proposed expansion is approved, the Enterprise Zone as expanded would consist of 10.4608 square miles. It was explained that the agreement must be amended to include the description of the 0.23 acres, more or less, to be added to the City of Freeport-Stephenson County Enterprise Zone in addition to the approval of all four units of government adopting ordinances amending the boundaries of the joint City of Freeport-County of Stephenson Certified Enterprise Zone.

Aldersperson Busker moved for approval of the ordinance on first reading, seconded by Aldersperson Klemm. The ordinance was automatically laid over to the next meeting.

**1<sup>st</sup> READING OF ORDINANCE #2016-14:**

**An Ordinance Amending Chapter 290 (Compensation and Benefits) Section 290.01 (Classification Plan) of the Codified Ordinances of the City of Freeport Regarding Transit Program Compliance Oversight Monitor (PCOM) and Transit Coordinator**

Community Development Director Alex Mills presented the ordinance and explained the City of Freeport must have a dedicated PCOM in order to fulfill the terms of the grant agreement entered into with the Illinois Department of Transportation (IDOT) for our transportation program. I have performed and continued to perform as the acting PCOM for the city in the absence of a dedicated PCOM; however, for proper management of the city's transportation program, a dedicated PCOM is necessary. Director Mills proposes eliminating the full-time Transportation Coordinator position that currently exists in the city's classification plan and replacing it with a part-time (19 hours/week) Transportation Program Compliance Oversight Monitor (PCOM) position. Director Mills recommends this position be established at a class grade 18 pay grade due to the professional skills required. This salary will be grant funded and the position will not be eligible for the Illinois Municipal Retiree's Fund. A full job description for this position has not been completed at this time. The intention is to transpose the specific IDOT required duties of the PCOM role directly into the job description itself, without including any duties which are not required by the grant agreement. I will work directly with the city's Human Resources Manager to accomplish this task prior to a potential second reading of the ordinance. Should City Council approve these changes to the classification plan, the Community Development Department will move forward with advertising the position and seeking applicants.

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Discussion was held on the labor grade in comparison to other labor grade position and the effect of having the position as part time would have on current operations. Mayor Gitz stated Director Mills and the Human Resource manager gave careful thought to the labor grade and this is their recommendation. Director Mills explained that the Senior Resource Center has advertised and is in the process of hiring an operations position so this will not affect the operations. Director Mills provided that the difference between a labor grade 17 and 18 for that number of hours per week would be \$1,200.00 per year. This position is paid by the 5311 grant funding. It was reiterated that Director Mills and the HR manager evaluated the position based on the duties and responsibilities and determined based on the requirements of the job and other what other positions in the department perform that it was recommended that the labor grade be an 18.

Aldersperson Koester moved for approval of the ordinance, seconded by Aldersperson Klemm. The ordinance was automatically laid over to the next meeting.

**RESOLUTIONS**

**RESOLUTION R-2016-05:**

**Resolution for Maintenance of Streets and Highways by Municipality Under the Illinois Highway Code  
Section #15-00000-00-GM Supplemental**

City Engineer Gallagher presented the resolution and explained the proposed Motor Fuel Tax (MFT) Maintenance Resolution for 2015 was approved by Council in the amount of \$685,000. He stated throughout the 2015 calendar year, additional expenses were incurred in the amount of \$136,866.74, in order to complete additional projects with reserve funds. The following is a breakdown and explanation of those overages:

**Contract 15-00000-00-GM: \$51,213.94**

Under the Materials Program, the Public Works Department incurred overages due to the purchase of additional hot-mix. Much of this was due to the above average weather observed in 2015, which allowed the patch program to continue well into the fall.

**Contract 15-00000-00-GM: \$33,855.50**

Under the Materials Program, the County-City intergovernmental agreement for the transfer of Forest Road, Fairgrounds Road and Pearl City Road, incurred costs for the repaving and shoulder stone along Forest Road and Fairgrounds. This additional expense was necessary to balance the agreement, which was finalized after the 2015 Maintenance Resolution was passed.

**Contract 15-00000-00-GM: \$2,800.00**

Under General Maintenance, the 2015 Biennial Bridge Inspections were mistakenly left off the proposed budget for 2015.

**Contract 15-00000-01-GM: \$48,997.30**

Under the Mill & Overlay Program, the Park District-City intergovernmental agreement for the repaving of Park Boulevard was expanded to include the milling and paving from LaCresta Drive to Empire Street. This was due to the Park District's work on curb ramps in this area and their additional commitment of \$25,000 towards paving this additional section. Extras were also incurred for curb and base repair on Wise Avenue.

Discussion was held regarding the amount of overages in the amount of \$136,866.74 and the reason for these overages. It was recommended that there be a formal process to be completed for overages of 5%-10%. It was noted that a majority of the overages were due to Public Works Department incurred overages due to the

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purchase of additional hot-mix. Much of this was due to the above average weather observed in 2015, which allowed the patch program to continue well into the fall and the Park District-City intergovernmental agreement for the repaving of Park Boulevard was expanded to include the milling and paving from LaCresta Drive to Empire Street. The Park District's work also included work on curb ramps in this area and their additional commitment of \$25,000 towards paving this additional section.

Aldersperson Brashaw moved for approval of the resolution, seconded by Aldersperson Koester. Aldersperson Chesney requested more oversight and notice to council when costs exceed the \$685,000 appropriated amount. The motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8)

Nays: none

Resolution R-2016-05 was adopted.

**RESOLUTION R-2016-06:**

**Resolution to Authorize An Amendment To Intergovernmental Agreement for the Operation of an Enterprise Zone – (*expansion of Berner Food & Beverage LLC*)**

Aldersperson Klemm moved for approval of the resolution, seconded by Aldersperson Busker. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8)

Nays: none

Resolution R-2016-06 was adopted.

**RESOLUTION R-2016-07:**

**Resolution to Authorize An Amendment To Intergovernmental Agreement for the Operation of an Enterprise Zone – (*realign boundaries of property and consolidate PIN for JJ Ventures*)**

Aldersperson Klemm moved for approval of the resolution, seconded by Aldersperson Busker. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8)

Nays: none

Resolution R-2016-07 was adopted.

**RESOLUTION R-2016-08:**

**Resolution Approving The New Compensation Package and Employee Status of the City Engineer**

Special Counsel Phillips presented the resolution to set for a new pay package for the City Engineer. He explained the City of Freeport has employed a City Engineer who works under the direction of both officials of the City and of the Commission. Shaun Gallagher is the current appointed and qualified City Engineer for the City of Freeport and currently classified as an employee of the Board of Water & Sewer Commission. In order to ensure the continued employment of City Engineer Gallagher who has been offered full-time employment by at least one other governmental unit, the staff of the City and of the Commission have negotiated a new compensation package. Special Counsel Phillips described the compensation package as provided in the memorandum of understanding provided with the resolution. Special Counsel Phillips noted the expiration date of this agreement is April 30, 2017 to run concurrently with the mayor's term of office. He stated there will be an ordinance presented at the next council meeting to exempt the City Engineer from Chapter 290.

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Aldersperson Klemm moved for approval of the resolution, seconded by Aldersperson Brashaw. Aldersperson McClanathan asked for clarification on the exemption from Chapter 290. Special Counsel Phillips explained the position has not been in this chapter previously because this position has its salary determined by the Water & Sewer Commission so now it need to be added in. Motion prevailed by a roll call vote of;

Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8)

Nays: none

Resolution R-2016-08 was adopted.

**Resolution R-2016-09:**

**Resolution Adopting A Whistleblower Policy of the City of Freeport**

Special Counsel Phillips stated he placed a memorandum for council.

The memorandum dated January 28,2016 provided the following: "I have prepared a very rough first draft of a proposed Whistleblower Policy for the City and emailed the same to the City Clerk for inclusion in the documents for the Agenda of the February 1, 2016. Since the last City Council Meeting, I reviewed the Sample Policy (which was written for a not-for-profit corporation in the State of California and was based on the California State Statute) and have made in excess of fifty changes, deletions or additions to the previous wording. This proposed Policy as submitted still requires additional re-wording and the resolution of several legal issues which may affect the Policy's validity and constitutionality. Some, but not all, of these unresolved legal issues include:

- A) Imposition of Sanctions Against Elected City Officials including
  - 1) Removal From Office
  - 2) Suspension from Official Duties
  - 3) Monetary Fines to be imposed
  - 4) Suspension of all Compensation
  - 5) Reduction of Compensation
  - 6) Forfeiture of Sick Pay or other Benefits
  - 7) Limitation on any Sanctions which are not unconstitutional change of form of Government
- B) Authority of Compliance Officer to Removal an Appointed Official from City Office
- C) Duty To Bargain In Good Faith over the "Affects" of the Policy with each of three Unions
  - 1) Does the Management Rights Clause of Each Collective Bargaining Agreement so require?
  - 2) Does the proposed Policy violate any of the express provisions of one or more of the three current Collective Bargaining Agreements?
- D) Requirement of that a Public Referendum be held and the voters authorize the City Council with the legal authority to enact some or all of the above provisions.

Special Counsel Phillips concluded by stating "I will continue to work on this Policy while the City Council considers its options in enacting this Policy. If you have any questions, please do not hesitate to contact the Legal Department."

Aldersperson Chesney moved to recommend resolution to the March meeting of the Committee of the Whole, seconded by Aldersperson Koester. Mayor Gitz asked council members to direct comments to Special Counsel Phillips.

**OTHER**

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**REPORTS OF DEPARTMENT HEADS**

**Community Development**

Director Mills provided information on a bid package he had posted on the website for the City to accept bids for 906 S. Galena, 915 S. Chicago, 1135 S. Galena and 1141 S. Galena for properties formerly known as the Okey Dokey and the Bookies Tap. The bid opening will take place on February 10, 2016 and Director Mills expects to be able to present the bids at the next council meeting. He expects to be able to start work 10 days after the February 16, 2016 council meeting.

Aldersperson Chesney discussed a press release on snow ordinance violations and provides his opinion on how warnings should be issued or fines provided to owners of property. Mayor Gitz stated based on the winter weather events and the amount of ice on the sidewalks, he felt the warnings were appropriate. He explained there has been sufficient time given to clear the ice so now violations to owners of property with snow and ice on the sidewalks should be issued. He considered this progressive enforcement. Director Mills explained the Nuisance Inspector concentrates on areas near schools to help keep safe passage for children.

**Public Works**

Public Works Director Tom Dole provided an activity report to council.

**Police**

Chief of Police Todd Barkalow had no report this evening.

**Fire**

Fire Chief Scott Miller had no report this evening.

**Water & Sewer**

Director Glendenning provided an update on water main breaks. Aldersperson Chesney complimented the Water & Sewer crew members for notices and follow up on a water main break. Director Glendenning explained that is standard protocol.

Director Glendenning stated he will provide a report at the April Committee of the Whole for issues facing the Water & Sewer Commission.

**City Engineer**

City Engineer Gallagher provided a micro surfacing street list. He provided an update on LED lighting. He has had continued contact with ComEd to get that project going and most recently provide a list of additional street lights. City Engineer Gallagher provided an update on the asbestos bidding for the Carnegie Library building. He estimated that design construction could begin as early as mid – May and that construction would take 8-10 months to complete. He will ask Winter Construction to provide estimate for concept. Discussion was held on the Motor Fuel Tax dollars available in the amount of \$635,000. He estimates that half the funds would be spent for the paver and half to mill and overlay. He expects to bid McKinley in February.

City Engineer Gallagher stated he has asked Prairie Forge to present at the Committee of the Whole their report on the status of the former City Hall building and he will forward it to council by the end of the week.

City Engineer Gallagher stated he will accept bids for materials on Thursday which was bid out by Illinois Department of Transportation.

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**Library**

Library Director Carole Dickerson provided an overview on the 2016 American History Lecture series presented by the Freeport Public Library.

**MAYOR'S REPORT**

Mayor Gitz stated there will be an annual report presented by the department heads at the next Committee of the Whole. He stated the four major points of the audit have been completed and there should be a rough report in February. Mayor Gitz stated they have placed an ad for the Finance Director. He explained that Bernie Mrugala has been assisting in balancing the bank accounts and providing supplemental information for the audit. He will also spend time reconciling Water & Sewer accounts. Mayor Gitz has met with representatives from US Bank to look at cash and accounts to report if there are ways to automate functions. Alderperson Chesney asked if there will be a revised role of the Finance Director. Mayor Gitz stated he will defer on that until he has received the US Bank report. Alderperson Klemm asked about the Water & Sewer receivables. Mayor Gitz explained that there are accounts that need to be reconciled and there is a fair amount of debt filed with the State Comptroller. They are also working to integrate the Finance and Water & Sewer accounting systems.

**COUNCIL ANNOUNCEMENTS/NEW BUSINESS**

Alderperson Busker provided information on the next Neighborhood Watch meeting for the 5<sup>th</sup> Ward scheduled on the third Tuesday at the First Church of the Nazarene.

Alderperson Chesney reminded the public to support the Freeport Art Museum fundraiser on February 5, 2016.

Alderperson Klemm asked about the next "Conversations over Pizza" with the Police Department. Chief Barkalow noted it will be held on February 10, 2016 at Westport Village.

Alderperson McClanathan noted congratulations to the Hilldale Dairy for their ribbon cutting ceremony at their new location in downtown Freeport.

Alderperson Miller reminded the public to support the Friends of the Pecatonica fundraiser February 13, 2016 to be held at Applebee's from 8:00 am to 10:00 am.

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

Tom Teich, Freeport Illinois spoke about demolition of the former Okey Dokey and Bookies Tap. He will participate in the Special Olympics the first week in February at Chestnut Mountain Ski Resort.

Upon a motion duly made and seconded, the meeting was adjourned at 8:25 p.m.

*s/ Meg Zuravel*

Meg Zuravel  
City Clerk