



City Council

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

MINUTES

REGULAR MEETING

MONDAY, JULY 18, 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, July 18, 2016.

ROLL CALL

Present on roll call: Mayor Gitz and council members Tom Klemm, Peter McClanathan, Art Ross, Jodi Miller, Patrick Busker, Michael Koester and Andrew Chesney (7). Alderperson Sally Brashaw was absent (1).

There was no legal counsel present at this time.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Alderperson Ross.

APPROVAL OF AGENDA

Leave of council was requested to move forward the Planning Commission ordinance to immediately following the public comments.

Alderperson Koester moved to approve the agenda, seconded by Alderperson Busker. Motion prevailed by voice vote without dissent.

MINUTES

The minutes from the regular council meeting held on July 5, 2016 were presented for approval. Alderperson Koester moved for approval, seconded by Alderperson Ross. Motion prevailed by voice vote without dissent.

PUBLIC COMMENTS – AGENDA ITEMS

Peter Kanzler stated he is the owner of PHP Bicycles which will be located at 201 N. Adams Avenue, Freeport Illinois. He will be moving his business currently located on south side of Freeport to this new location. He thinks having a bike shop next to the Jane Addams Trail in downtown Freeport is a good business move. They will provide full bicycle retail and repair. They also have plans at a later date to add a coffee shop and bakery. He stated that Freeport could become a bicycling destination and this will add to economic development in downtown Freeport.

The following ordinance was moved forward on the agenda:

1st READING OF ORDINANCE #2016-42:

Special Ordinance for Variation Permit or Amendment of Codified Ordinances of Freeport, Illinois

A petition was filed for Peter H. Kanzler for the property located at 201 N. Adams Avenue Freeport, IL (PIN #: 18-14-31-204-001 & 18-14-31-204-002). The relief sought by the documents on file is a zoning map amendment changing the zoning of the subject property from M-2 (General Manufacturing) to B-3 (Commercial and Wholesale Business).

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Community Development Director Alex Mills presented the ordinance and stated the public hearing on it was presented on July 18, 2016. The Planning Commission unanimously recommended its approval and no person filed a formal written objection or protest to such ordinance so the City Council can take final action on the proposed ordinance at the first reading. Director Mills stated the proposed findings of fact and staff recommendations from July 18, 2016 Planning Commission meeting provided that because these properties abut land zoned B3 Commercial and Wholesale Business District, because adequate offsite parking is available at a nearby municipal parking lot, and because the proposed permitted use is in character with surrounding retail and recreational uses, staff recommends approval of this application for a change in zoning classification. Director Mills stated the findings of fact were adopted unanimously as part of this ordinance.

Aldersperson Klemm moved for approval Ordinance #2016-39 for passage, seconded by Aldersperson Busker.

Aldersperson McClanathan asked Director Mills if there was any discussion at the Planning Commission as to whether this is a broader use or if there would be complications for future use in regard to the change in zoning. Director Mills stated that because of previous tenants in the building were also performing a similar service as the future use and the B3 zoning is more appropriate fit for retail sales as opposed to general manufacturing. He explained that based on most recent history this is what the property has been used for.

Aldersperson Koester asked whether the zoning would allow for a bakery and coffee shop to be added at a later date. Director Mills stated yes it would allow for their future goals for expansion. This zoning is also in harmony with the bike shop including its bike repair business and retail sales.

Upon no further discussion, the motion for passage of the ordinance prevailed by a roll call vote of:

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

Nays: none

Ordinance #2016-42 was passed.

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 to Receive and Place on File:

- 1) City Treasurer's Report of Cash and Fund Balances for period to June 30, 2016
- 2) Police Department Report of Activities for June 2016
- 3) Fire Department Report of Activities for June 2016
- 4) Building Permit Report of Activities for June 2016

B. Approval of Motor Fuel Tax Fund Bills Payable (Register #0084) --- \$19,492.16

C. Approval of Water & Sewer Bills Payable (Registers #580, 587, 591, 592) --- \$1,389,780.04

D. Approval of Payroll for pay period ending July 9, 2016 --- \$415,036.99

E. Approval of Finance Bills Payable (Registers #582,583, 584,588, 589,590,593, TBA) -- \$458,268.56

F. Approval of Resolution R-2016-41: Resolution to Request Temporary Closure of Streets Colby Smith Memorial 4-Mile Classic – August 27, 2016

Aldersperson Koester moved for approval of the consent agenda, seconded by Aldersperson Busker. The motion to approve the Consent Agenda prevailed by a roll call vote of;

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

Nays: none

The consent agenda items were approved.

ORDINANCES -- FIRST READING

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1st READING OF ORDINANCE #2016-39:

An Ordinance Amending Chapter 806 Entitled "Alcoholic Liquor Sales" Section 806.13 (Transfer of Licenses) of the Codified Ordinances of the City of Freeport, Illinois

This ordinance was recommended to council by the Liquor Commission in their meeting held on July 14, 2016. Suspension of the rules for passage this evening is requested by the administration.

Mayor Gitz presented the ordinance and explained this is a technical amendment to section 806.13 to allow for a transfer from a corporation to a corporation. He explained our ordinances currently allow for a transfer to a corporation if you are a sole proprietorship or a partnership, but as currently written, it does not allow a corporation to corporation transfer when the ownership structure itself remains the same. He explained this ordinance incorporates the wording into the liquor code and it has been drafted by Attorney Phillips. Mayor Gitz provided written documentation stating the Freeport Club (former Freeport Country Club) has business arrangements pending but because of the terms of our own code we could not transfer the license because of the way the previous license was held. The Liquor Commission recommended this to the City Council unanimously.

Aldersperson Chesney stated he will be abstaining on this ordinance due to his relationship with FCC Holdings.

Aldersperson Klemm stated he attended the meeting and the comments at the meeting were favorable to it and this is to insert a place that did not exist before for a corporation to move and still maintain the same license.

Aldersperson Klemm moved for approval Ordinance #2016-39 for passage, seconded by Aldersperson Ross.

Aldersperson Klemm moved for suspension of the rules for passage this evening, seconded by Aldersperson Busker. The motion for suspension of the rules for immediate consideration prevailed by a roll call vote of:

Yeas: Klemm, McClanathan, Ross, Miller, Busker, and Koester (6)

Abstain: Chesney

Nays: none

Aldersperson McClanathan asked Mayor Gitz to clarify that the ownership of the stock including the voting rights of the corporation would be for the same persons and the same proportion of ownership so therefore what we are looking to do is the situation whereby there might be a change in corporation but players in the same proportion to remain the same we are allowing that avenue as opposed to under the current liquor ordinance it was not allowed is that correct. Mayor Gitz that is correct. The stockholders did not hold title to the original license it was in the name of the entity doing business. He stated it has been represented to him that the stockholders are by and large the same except for the demise of an individual and in the same proportion. They have created a new entity with the same ownership and this solves the issue so that the transfer can then be made. He stated this puts a corporation in the same footing as an individual or a partnership wishing to transfer their license and forming a corporation. Aldersperson McClanathan further verified that this is putting the same rights as that of an individual or a partnership. Mayor Gitz stated that is correct.

The motion for passage of the ordinance prevailed by a roll call vote of:

Yeas: Klemm, McClanathan, Ross, Miller, Busker, and Koester (6)

Abstain: Chesney

Nays: none

Ordinance #2016-39 was passed.

1st READING OF ORDINANCE #2016-40:

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An Ordinance Amending Paragraph (i) Entitled "Class V Licenses" Of Section 806.03 (Classification Of Licenses) Of Chapter 806 (Alcoholic Liquor Sales) Of The Codified Ordinances Of The City Of Freeport

Mayor Gitz presented the ordinance and explained this ordinance has been recommended to the City Council by the Liquor Commission in their meeting held on July 14, 2016. Mayor Gitz explained that the Liquor Commission has been struggling with an issue on the fact that there is a limitation on V licenses but not a lid on liquor licenses. He stated with a cap, anyone with a new purchase of a business they will be on a waiting list for a V license. He stated we have one party that has been in that position for some time now. He provided an example of at least one prior situation where a business has come to sell (part of that business revenue has come from the video proceeds) but can't transfer the license so the value of the business is not the same so they were unable to sell to the new buyer because it would go to the person on the waiting list instead of being able to transfer to the new owner of the business.

The amendment that has been drafted would allow for a transfer by placing the following wording in the Chapter 806 for a V License:

Any Class V License shall only be transferred once to an entity known as a "New Transferee" under the same conditions as stated in Paragraphs (b), (c), (d) and (e) of Section 806.13 of this Chapter. The New Transferee shall not transfer the Class V License to any other entity. Said New Transferee shall be required to operate in the same location as the transferring Licensee. The New Transferee shall also qualify for and obtain a valid Mechanical, Electric, Electronic and Computer Games and Devices License as required by Section 844.02 of Chapter 844 of *The Codified Ordinances of the City of Freeport*. Any such New Transferee shall also meet each of the requirements of Sub-Paragraph (7) stated immediately below, as now or hereafter amended. If a Class V License is eligible for transfer under any of the provisions of this Section, the application fee for such transfer shall be \$500.00.

Mayor Gitz stated without this ordinance as written, due to a business entity needing to transfer their license they would lose their video gaming license and the timeliness comes into play because we have a business who acknowledges they did make a transfer under the code and they did need to get a new license. The Liquor Commission stated we will give you sufficient time to clean that up and you should not be in a position when you apply for your new license you lose your V license. He requested the council to pass the ordinance in a timely manner in order for the business not to have unintended consequences when applying for their new license. They did not want to see them lose their V license. We are trying to accommodate their compliance with the law and to do so in a timely manner.

Mayor Gitz referred to page three for qualifications of those using the V license classification and will apply to new licenses. He explained those provisions listed in A, B, C, D and E are for prospective establishments who use the liquor license and applies to future operations and not to an existing business licensed under a V classification. They must apply for an A or AR license and not to simply set up a business as a gambling parlor. The third thing that is required through the V classification is a slight expansion to 25 to allow for a few more licenses. This accommodates the current waiting list and also if a business was a restaurant and complied with these provisions they would be able to get a license as well. He stated these are the recommendations of the Liquor Commission.

Subsection (7) of Ordinance 2016-40 as referred to by Mayor Gitz requires the following:

For new Class V Licenses issued on or after the effective date of this Ordinance, other than applicants for Class V License who are on the Official City Waiting List as of the effective date of this Ordinance, the Class V License shall be issued only to a licensed premises meeting each of the following criteria:

- A) Meals shall be actually and regularly prepared on the licensed premises and served in accordance with either a general or specialized menu;
- B) The licensed premises shall maintain a current food service license from Stephenson County;

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- C) The licensed premises shall have a minimum seating capacity of thirty-two (32) persons and a seat shall be provided for each person;
- D) The area of the main dining room or dining rooms shall provide a minimum of ten (10) square feet per customer; and
- E) The Class V Licensee's share of the onsite video gaming revenue cannot exceed 35% of gross sales on an annual basis. "Gross Sales" shall be determined by aggregate of the total receipts of liquor, food, and retail sales on the licensed premises and shall be verified by a Certified Public Accountant upon request of the Liquor Commission."

Mayor Gitz provided a written memorandum which explained that when an establishment is sold to a new owner the video gaming license does not transfer. Current owners argue that part of their business depends upon the video poker revenue stream. If there is no assurance of the availability of a V license, then the business may not be sold at all. Ordinance 2016-40 resolves this problem. In addition it creates criteria for a V license that would affect the type of premises that must be maintained in order to acquire a V license. It applies to new licenses not current establishments.

Alderson Klemm stated he was in attendance at the Liquor Commission meeting and there was a great discussion on the pros and cons of the cap of it. He noted that license for the V classification will only be issued if they obtain a full liquor license with a \$10,000 initial fee and not if you have a \$5,000 license. He explained the other thing is that over 35% of the sales have to come from other things for the business, it can't come from the gaming machines and it is going to be a restaurant and an eating place that would be able to get that new license. Alderson Klemm recommended the wording to more clearly define a business as provided in Ordinance 2016-40. He also explained that currently there are 22 licenses with one on the waiting list and now there will be a list of items required so it will be a deterrent for more of a restaurant if they want a new license.

Alderson Chesney stated he also attended and spoke at the Liquor Commission. He stated Mayor Gitz did a good job navigating the complexity of the restaurant/bar first and to discourage what is defined as a casino parlor that is heavily driven by casinos or how it is played out in this. He stated as discussed in the Liquor Commission meeting there was discussion of the transfer of a license for a onetime only and there is a little bit of concern if someone was to sell their business and that was their one time and wondered if there was a particular reason that there is no loop hole that would encourage these casinos to come in and purchase an existing business. Mayor Gitz stated that was aimed to not allowing a business to keep transferring and never having to come back. He stated that Attorney Phillips shared with the Liquor Commission the reasons and he will defer on that until he comes back. Alderson Klemm stated that could be changed at a later date if we look at it and see a reason.

Alderson Chesney moved for approval Ordinance #2016-40, seconded by Alderson Klemm.

Alderson Busker moved for suspension of the rules for passage this evening, seconded by Alderson Chesney. The motion for suspension of the rules for immediate consideration prevailed by a roll call vote of:

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

Nays: none

Mayor Gitz stated we have the ordinance before the council for final consideration and asked for more discussion or debate.

Alderson Koester explained the original ordinance was voted on prior to the majority of this council being seated and at the time we discussed that we may need to amend to accommodate. The original intent was so that we did not get inundated with gambling parlors but to accommodate other businesses. He stated this is very well done and as long as current establishments do not have to meet the qualifications this will not be a major change to them and for a new licensee he is totally in favor of it.

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Aldersperson Klemm stated there is only x amount of dollars being played and the more establishments that you put in the less you to have for those businesses trying to do everything they can to maintain their business. He stated what the Liquor Commission put in there is good because this will not be their main business and it will be another revenue source for them.

Aldersperson McClanathan stated the changes make sense and asked whether the groups on the waiting list have an A, AR or W liquor license. Mayor Gitz stated there is no "W" license on the waiting list. This was confirmed by City Clerk Zuravel who explained they have an "A" liquor license.

The motion for passage of the ordinance prevailed by a roll call vote of:

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

Nays: none

Ordinance #2016-40 was passed.

Aldersperson Koester asked with the changes for a new licensee if one of the current establishments which is a mini-casino changes license, do they have to at that point need to comply with the new requirements or since they were already established as that would they go under the old guidelines. Mayor Gitz stated if they make the transfer he does not believe so but if they are a brand new licensee under the liquor code then yes they would need to come under compliance. Aldersperson Koester confirmed for a transfer they would not have to comply to this but after that they would. Mayor Gitz stated that is his understanding from Attorney Phillips and if he has that wrong he will let the council know. Mayor Gitz stated he truly wishes he was here because he helped refine this.

1st READING OF ORDINANCE #2016-41:

An Ordinance Amending Chapter 1044 (Water Rates and Revenues) of the Codified Ordinances of the City of Freeport

This ordinance was recommended to council by the Committee of the Whole on July 11, 2016 on a motion by Aldersperson Koester, second by Aldersperson Klemm and approval by unanimous vote.

Mayor Gitz presented the ordinance and noted there will be some clean up language required of Attorney Phillips because he has not had the chance to do a full legal review. He will also need to incorporate consumer price index onto the sewer rates and the intent was for it to apply to both. He also noted the initial effective on should be changed from August 1 to September 1, 2016. He explained any technical amendments that are needed can be drafted and available for the second reading.

Mayor Gitz introduced Water and Sewer Executive Director Tom Glendenning and stated at the last Committee of the Whole this was discussed at length because of the infrastructure needs of the Water and Sewer System which are formable. At that time it was the will of the council that we discuss that our rates have not been keeping up with inflation every year. We are not able to keep up pace with the cost of goods for operations so the City Council directed us to come up with an ordinance to discuss. Director Glendenning explained that there need to be a correction to the ordinance to add a section under the Sewer Rates as well as the way it is written for the Water Rates. He explained the inflation costs on the sewer side exceed the cost of operations on the water side. He explained there may be two ordinances if necessary and they will read exactly the same. Director Glendenning explained that the Consumer Price Index that we would use is the one that applies to our industry.

The following amended wording was provided in the ordinance:

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“Consumer Price Index Adjustment (CPI) - Effective August 1, 2016 and each year thereafter on May 1st, upon the approval of the Freeport City Council, the water system availability charge and the per unit usage margins for all rate customers will be adjusted by using the most recent CPI as published by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) using the ‘Water and Sewer and Trash Collection Services’ index.”

Director Glendenning stated the Water and Sewer and Trash are at the top of the chain on the six page report provided from the Bureau of Labor and they categorize it in one area for the nation and we can eliminate trash because we are not dealing with that right now that is one of the technical changes to make. He noted the CPI is published as goods and services that apply to the water and sewer utility industry. Director Glendenning stated that if we apply that percentage now it would be 5.3% as of February 2016. He noted that is based on last year’s data. It is published usually in February but sometimes we do not see it until March. It is based on the previous year’s data of inflationary rates.

Aldersperson Klemm asked if this is really a reinstatement of this that it was in the ordinance or a formulation of it. Director Glendenning stated it was never called out as the consumer price index, it was just a known change and the proof showed in his graphs that it was 4-5% constant revenue increase on an annual basis for the late 1990 to around 2006. He stated you could see a steady increase every year. Director Glendenning stated a lot of times what is done is to say it is not to exceed 5% and that is what is done with previous ordinances in other communities just so they know there is a known number of people to plan on. The base rate and the usage rate would increase by the Consumer Price Index not to exceed 5% (five percent).

Aldersperson Klemm explained what has hurt us is on the maintenance of the equipment because all of the products used have gone up in price especially the cost of brass to replace fittings, sometime doubling in price.

Aldersperson Miller stated she received a lot of phone calls on this because all they heard was their water bill was going up \$30.00 and asked for further clarification on dollars and cents what this ordinance means to an individual homeowner.

Director Glendenning explained that it would be on the base rate which is currently \$3.60 cents so that would be an increase of \$.18 (eighteen cents) for the base rate. The base rate for sanitary sewer is \$5.15 (he believes) so that would be around \$.25 (twenty five cents) on the base rate and there is a .0014 gallon usage charge and you would put 5% on that so that would be 100ths of a cent for that point in time for the usage. He estimated on the base rates it would a few dollars per year. Director Glendenning noted not only are the commodities increasing each year but also the wages paid to the employees increasing by a couple of percentages with over 50-60% in personnel costs. That takes our expenses up each year with no additional revenue and when we use outside services we pay prevailing and those are adjusted annually so we pay more for specialty services as required.

Mayor Gitz stated that there is now confusion because people heard from the Journal Standard it was increasing \$30 and that is not correct this ordinance is for the Consumer Price Index and there are further discussions that will be held with the public on major issues that need to be financed. He stated our purchasing power on our maintenance and investment to the Water and Sewer Department are crucial to maintain every year and even if we are collecting a few cents every month at least we are staying even with the rate of inflation.

Aldersperson Koester noted that he received phone calls but once the resident received the information this is for the CPI and why we would be doing it they were ok with it.

Aldersperson Chesney referred to his water bill as about \$9 to \$11 per month and stated that would increase his bill by \$.50 per month. Director Glendenning stated that is the amount of increase for the water bill and for the

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sewer bill it would be twice that (approximately \$1.00). It was estimated in this case to be about \$1.50 per month. Discussion was held as to the usage of a household. Director Glendenning stated that if you look at what has happened in this area for the cost of goods you have seen 42% inflation that has hit us with no increase. The base rate is the same as it was in 2001 in the Operations and Maintenance portion of the rate setting so we are not generating any more revenue than we were sixteen years ago.

Discussion was held on the Consumer Price Index as it relates to water utilities and maintenance and the effect on the water bills. Council reviewed different examples and what the effect of the CPI would be in these samples.

Aldersperson McClanathan requested what is the CPI used on the trash that was taken recently. Mayor Gitz stated he thinks it is around one percent and that amount is specified in the contract and he believes it is for rural areas.

Aldersperson McClanathan asked Director Glendenning what has been the total CPI and the step increase for the Capital Improvement Fund projects. Director Glendenning stated the first phase was \$4.00 and that transferred from O&M to start that. Then, from that there were three steps at \$2 each to secure the Big 4. After that there was the remaining \$5 dollars that we just had approved. Aldersperson McClanathan asked what has been the total effect on the O & M of the Water and Sewer Commission since 2008. Director Glendenning stated the cost of goods has gone up 42%. Aldersperson McClanathan asked what has been the impact or repercussions of not keeping up with inflation with the O & M staying the same and having a 42% CPI increase in cost of goods. Director Glendenning stated the two biggest impacts is deferred maintenance so what happens is the preventative maintenance get set aside and we don't fix things until they get broken and that ends up costing us three time as much for our type of equipment. The second impact is that we have had to skeletonize our staff so we are not able to do typical hydrant maintenance that we used to do and maintenance on our equipment. Aldersperson McClanathan asked Director Glendenning if he could estimate the cost of not doing preventative maintenance what that has cost us over approximately eight years. Director Glendenning stated it is in excess of \$1 million dollars.

Aldersperson Koester moved for approval Ordinance #2016-41 for passage, seconded by Aldersperson Busker.

Aldersperson Klemm requested to have an report showing the effect this will have on a sample bill.

Mayor Gitz stated the item to be added into the ordinance is the not to exceed 5%.

Aldersperson Chesney stated that giving the resident some certainty is what he would ask for and the only area of debate is whether it will be 5% and wondered if it should be 4%. Mayor Gitz stated you can discuss that once you receive the full draft at the next meeting.

Director Glendenning stated he will put that cap on it and each year we will discuss and review based on what the index says. He asked council to be mindful that we are trying to recover over the years. He stated keeping it at 5% when we have lost 42% and it ended up being a capital improvement projects having three times the cost so there is a trade off by not going to the full percentage.

Mayor Gitz stated before we move on he wants to make sure the council understands what they will see in this. The ordinance will be placed on the floor knowing that there will be 1) clarification of existing language which is not quite in proper form but the content will be the same; 2) incorporate the sewer rates chapter into the CPI adjustment; 3) to add language for a limitation not to exceed 5% or whatever number the council agrees upon; and 4) to change the effective date to September 1, 2016.

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Aldersperson McClanathan asked if there was rationale as to why the CPI would have been taken out. Mayor Gitz stated he can only answer for part of that (he can't answer for 2005 through 2013) but the original rationale was to keep up with inflation and not to diminish the funds that we had in order to maintain the system. He stated that what he has been able to piece together then when there was capital projects added with additional fees then the thinking was that inflation hasn't been all that great we are going to add in special capital projects and forgo the inflation to make it more palatable. Aldersperson Klemm agreed with that statement.

Mayor Gitz noted this is for consumer price index and we know there are a lot of needs in the system but that is a larger debate and will be considered separate. This is so we do not continue to lose ground on some of the core problems and maintenance on the systems for which the costs have been higher than what they would have been if they were maintained if we had funded it properly.

Ordinance #2016-41 was automatically laid over to the next meeting.

Ordinance #2016-42 was moved forward on the council agenda to immediately following public comments.

RESOLUTIONS

RESOLUTION #R-2016-39:

Resolution Approving The Agreement Between City Of Freeport And McClure Engineering Associates, Inc. For Phase II Preliminary Engineering Services (Pecatonica Prairie Trail)

City Engineer Gallagher provided a memorandum regarding the Pecatonica Prairie Trail Preliminary Engineering – Phase II. It stated the resolution is for Preliminary Phase II Design services provided by McClure Engineering for the completion of the Pecatonica Prairie Trail from Tutty's Crossing to the US 20 Bypass. Previously City Council authorized the completion of Preliminary Engineering Phase I services at the end of 2014. Since that time, we have selected an alignment and have completed our Phase I submittal to the Illinois Department of Transportation. The Illinois Department of Transportation has reviewed our submittal and has responded with comments to be completed under the attached Phase II contract.

It is important to note that during design of Phase I engineering, additional services anticipated for Phase II were required for our Phase I submittal. The attached resolution outlines engineering fees associated with each phase of the project so that Council can approve the total costs of engineering associated with Section A of the trail. The total cost for engineering services will stay within our original budget that was submitted with the grant back in 2013, however it has been indicated by IDOT that reimbursement of engineering fees will not be authorized until after construction bids are received. This change is to ensure that construction has adequate funding, prior to exhausting the grant funding with engineering fees.

At this time, the total cost for engineering services is at a not-to-exceed price of \$232,592.99, with \$46,500 being approved under Preliminary Engineering Phase I, \$26,900.00 being shifted from Phase II services to Phase I services, and \$159,192.99 being completed under the proposed Phase II contract. We anticipate that we will be out to bid between January and March of 2017 with construction starting upon IDOT award. In order to limit additional expenses that may occur from high bid prices, costs for construction engineering, and the approval/design of construction field changes, the City Engineer shall perform all construction inspection on the project.

Aldersperson Chesney provided his concerns for spending \$160,000 on a project and asked if this should have been bid out. City Engineer Gallagher explained that McClure was used in the Phase I of the project for the Pecatonica

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Prairie Trail and had another firm been used they would have to start from the beginning and would not have the previous drawings and programs to draw off of and this firm has the historical knowledge of the project. City Engineer Gallagher stated for professional services it does not need to be bid. He noted he will review the files and placed in the documents a not to exceed value of \$232,000 for the engineering services.

Alderperson Miller asked about there being a local match. City Engineer Gallagher explained the Pecatonica Prairie Trail Commission funds this project and we are the lead so the cost is split three ways between the City, Freeport Park District and Stephenson County.

Alderperson Chesney requested further information on whether this project should have been bid and noted his preference would be to use a Freeport firm versus a Rockford firm. City Engineer Gallagher explained when this project began there was a Request of Proposal and that would have been around 1998. He explained to completely change firms now after a firm having the historical knowledge to complete would end up costing more money because there would be legalities in use of proprietary information and drawings.

Alderperson Koester moved for adoption of Resolution R-2016-39 as presented, seconded by Alderperson Miller. The motion for adoption of the resolution prevailed by a roll call vote of;
Yeas: Klemm, McClanathan, Ross, Miller, Busker, Koester and Chesney (7)
Nays: None
Resolution R-2016-39 was adopted.

RESOLUTION #R-2016-40:

Resolution For The Agreement Between The City Of Freeport And The Illinois Department Of Transportation For The Construction Of The Pecatonica Prairie Trail Amenities (Section No. 16-00163-01-MS)

City Engineer Gallagher provided a memorandum regarding the Pecatonica Prairie Trail Tutty's Amenities. It explained the resolution is for the authorization of construction funds for the Tutty's Crossing Amenities. This construction is part of the Illinois Transportation Enhancement Program Grant for the Pecatonica Prairie Trail. This grant requires a local 20% match in the amount of \$60,000.00 for the \$300,000 project. The local match will come from the Capital Improvement Fund for Bike Trails. He stated the project will construct a building at the Tutty's Crossing site with three (3) bathrooms and covered seating area with a concession/storage area. It is anticipated that the project will be bid sometime this fall, for either late fall or early spring construction. We expect the project to be well under this budget, however this was the appropriation amount recommended by IDOT. Prior design presentations on the project were presented previously to City Council.

Alderperson Koester moved for adoption of Resolution R-2016-40 as presented, seconded by Alderperson Miller. The motion for adoption of the resolution prevailed by a roll call vote of;
Yeas: Klemm, McClanathan, Ross, Miller, Busker, Koester and Chesney (7)
Nays: None
Resolution R-2016-40 was adopted.

OTHER

REPORTS OF DEPARTMENT HEADS

City Engineer

**MINUTES -- REGULAR MEETING
MONDAY JULY 18, 2016 at 6:00 P.M.**

Ordinance recommendation for the Multi-Use Path to add a chapter to the Codified Ordinances

City Engineer Gallagher presented the draft wording to be incorporated into an ordinance. Discussion was held on the following sections from the DRAFT document:

1032.01 PURPOSE - The multi-use path requirements specified herein are intended to foster safe and accessible alternatives to sidewalks within the community. Multi-use paths are constructed for bi-directional travel and the use for pedestrian access and recreation.

1032.02 CONSTRUCTION AND REPAIR - (a) Compliance. All multi-use paths hereafter constructed or repaired on or along any street within the City, whether pursuant to any special ordinance or otherwise, shall, unless otherwise provided by special ordinance, be constructed or repaired as herein provided.

(b) Location. All multi-use paths hereafter constructed shall be upon such portion of the land between the curb line of the street and the property line of the abutting owner as shall be particularly designated by the Public Works Director or City Engineer.

(c) Width, Line and Grade. The width, line and grade of all multi-use paths hereafter constructed shall be determined by the Public Works Director or City Engineer, and there shall be no variation from his or her determinations and directions in such matters. All pavements shall comply with all State and Local Laws for accessibility and shall not exceed a two-percent cross-slope. All multi-use paths shall be a minimum width of eight feet.

(d) Materials and Specifications. All multi-use paths, unless otherwise provided by special ordinance, shall be constructed or repaired with hot-mix asphalt or Portland cement concrete in accordance with the following specifications.

(1) Hot-mix asphalt multi-use paths shall be constructed on a minimum base course of eight inches with a two inch asphalt surface. All street crossings shall comply with accessibility requirements and shall be poured in concrete for a minimum distance of five feet from the closest roadway pavement or curb.

(2) Portland cement concrete multi-use paths shall be constructed on a minimum base course of six inches with a five inch concrete surface. All street crossings shall comply with accessibility requirements. Concrete shall be jointed a maximum of ten foot spacing for all control joints and expansion joints shall be placed every one hundred feet.

1032.03 RESPONSIBILITY FOR REPAIRS AND SAFETY - The owner of the land upon which a multi-use path exists shall keep and maintain such multi-use path in a safe condition and a good and thorough state of repair at all times. Nothing in this Chapter shall be so construed as to relieve such owner from the duty and obligation hereby expressly enjoined and imposed.

1032.04 LIABILITY FOR INJURIES OR DAMAGE NONRESIDENTS - If at any time any injury or property damage shall be sustained by any individual, or the City shall be subjected to any damage liability, in consequence of any defect, obstruction, lack of repair or dangerous condition in or on any multi-use path, or in consequence of any other violation of this chapter, the Owner, Government or designated Commission whose duty it is to maintain such multi-use path, or the person causing such defect, obstruction, condition or violation, shall be liable for such injury, damage or liability, to the City or to the person injured or damaged. If such owner is a nonresident, proceedings may be commenced against the property by attachment, under the laws of the State of Illinois.

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1032.05 DAMAGING - No person shall make or cause any break, damage or hole in or to any pavements with the multi-use path.

1032.06 PROJECTIONS - No person shall construct or place any portico, porch, door, window, railing, areaway or steps, which shall project into or over any multi-use path, without permission of the City Council.

1032.07 DISCHARGES FROM DOWNSPOUTS - No person shall erect or maintain any downspout or pipe from the eaves or roof of any building, constructed in such a manner as to discharge rain water or surface water upon any multi-use path.

1032.08 SIGNAGE - All persons using multi-use paths shall comply with all laws and obey all posted signs and pavement markings.

1032.09 BICYCLES ON MULTI-USE PATHS - Chapter 462.06 shall not apply to multi-use paths unless signage posted on the path directly prohibits the use of bicycles.

1032.10 COASTING OR SLEDDING - No person shall engage in coasting or sledding on any multi-use path.

1032.11 DRIVING - No person shall drive or stand any vehicle on, over or across any multi-use path or parkway, except for driving upon an established driveway across such multi-use path or parkway.

1032.12 PROTECTION OF EXCAVATIONS - No person making any excavation upon or adjoining any multi-use path, or having the same in charge, shall leave the same open and unprotected at night so as to endanger the safety of persons or animals.

1032.13 SHARP FENCES - No person shall erect or maintain along any multi-use path any fences of barbed wire or of any other sharp, pointed or dangerous materials.

1032.14 SPIKED RAILINGS - No person shall erect or maintain along any multi-use path any railing upon which there is affixed any spike, nail or other pointed instrument.

1032.15 ACTIVITIES INTERFERING WITH PEDESTRIANS - No person shall engage in any game, sport or amusement, exhibit any animal or machine or do any other act or thing upon any multi-use path or adjacent thereto, which shall interfere with persons passing along. Multi-use paths shall be permitted for public events, upon application and approval under Chapter 1030.

1032.16 DUTY OF OWNERS TO KEEP MULTI-USE PATHS FREE OF SOLID WASTE - (a) Persons owning or occupying property shall keep the multi-use paths in front of their premises free of solid waste. (b) Persons owning or occupying places of business shall keep the multi-use paths in front of their business premises free of solid waste.

1032.17 SALES; MERCHANDISE DISPLAYS; CAFES - (a) No person shall sell, attempt to sell or cry out for sale at public auction any real or personal property upon any multi-use path, except in accordance with Chapter 1030 (Special Events). (b) No person shall place any boxes, goods, wares or merchandise, for sale or show, upon any multi-use path located in the Central Business District, except in accordance with Chapter 1030 (Special Events).

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1032.18 WRITING - No person shall paint, print or write on any multi-use path without permission of the City Council.

1032.19 DEPOSITING OF SHARP MATERIALS - No person shall deposit, place or leave upon any multi-use path any broken glass, crockery, nails, tacks, iron cuttings, wire or other articles likely to wound, injure or damage any person, animal or vehicle.

1032.20 DEPOSITING OF SOLID WASTE - No person shall unload, throw or place any coal, sand, solid waste, stable matter or hazardous matter, as defined in Section 1060.01, upon any multi-use path.

1032.21 SNOW AND ICE REMOVAL - The local government(s) or designated commission shall be responsible for snow and ice removal, excluding areas designated for access driveways. The owner and occupant of land abutting the street dedication or right of way upon which a multi-use path exists shall keep and maintain the area designated within the driveway apron.

1032.22 MATERIALS ON PARKWAY - No person shall exhibit, stand or store any merchandise, machinery, junk or other materials on the parkway section, between the curb line and the property line of any street.

1032.99 PENALTY - Whoever violates any of the provisions of Section 1026.15 or 1026.21 shall be fined not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00) for each violation, if the fine is paid within five days from the issuance of the ticket, and, if not paid within five days, then not less than forty dollars (\$40.00) nor more than four hundred dollars (\$400.00) for each such violation."

City Engineer Gallagher stated that the removal of snow and ice may be handed over to a commission at some point. He also noted he prefers to amend the signage and striping sections because the striping is not preferred. He also needs to define what the multi-use path is. By definition it would be an eight foot wide path in the right of way.

Aldersperson McClanathan asked if we are ready to handle the snow and ice removal or is this section in need of further discussion. City Engineer Gallagher explained we will be responsible but he may have the opportunity to work out through an intergovernmental agreement for services rendered by the City Engineer for projects.

Aldersperson Koester stated he appreciates the draft and would recommend referring discussion to the Committee of the Whole for further discussion and made a motion to do so. This motion was seconded by Aldersperson Chesney.

City Engineer Gallagher stated that there is currently not an intergovernmental agreement on file at this time and with school starting in August we may want to get something on the book. He has some minor changes that he will need to make. He noted they will be paving the trail or path around date of the Committee of the Whole. The construction of the path was adopted by a past resolution so he has been approved to build the path. The way the ordinances are currently written the riding of bikes on a path can be cited if you are over 18. He would recommend that the ordinance be considered at the first meeting August. He stated he will not be able to attend that meeting.

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Aldersperson Chesney withdrew his second. Motion Koester withdrew his motion.

Aldersperson Chesney then made motion to have a drafted ordinance presented at the next council meeting. Aldersperson Koester seconded the motion to have it for the council on August 1st.

Aldersperson McClanathan asked if City Engineer Gallagher foresees repairs different than sidewalks. City Engineer Gallagher stated that if there are improvements then Com Ed or NICOR would have to repair the path as necessary.

Aldersperson Koester asked for further information on snow removal on this. City Engineer Gallagher stated there was discussion this morning about alternatives for snow removal. He will pursue who will be responsible and see alternatives before we vote on this.

Aldersperson Klemm stated he is hearing some anxiety and yet the amount of time is an issue.

City Engineer Gallagher stated we do have multi use path in City and it is called the Jane Addams Trail. He noted that maintained by Freeport Park District in summer. The contractor had responsibility over it until it was built through the snow events until it was complete.

Aldersperson Chesney asked who is responsible under the ordinance. City Engineer stated the way the ordinance is written we are responsible for snow removal under ordinance

Mayor Gitz stated he has heard the issues and took notes. He explained it will be useful to have an ordinance moving forward. He stated that City Engineer Gallagher has some ideas to trade off of services with other taxing bodies. It has been recognized that the equipment needed is not that same as clearing a street. We will work on the ordinance and bring recommendation to council for the next meeting.

City Engineer Gallagher stated he will review the ordinance from constructability will redraft and out to the council as soon as possible so that if there are any changes that you need me to clarify before the next meeting.

Community Development

Award of Bid (CD-006-16) Demolition Services for three residential properties at 403 E. Winslow, 807 E. Stephenson and 517 E. Winneshiek to JMP Trucking, Inc in the amount of \$22,000 – [view bid tabulation](#)

Community Development Director Alex Mills stated on July 14th 2016 the Community Development Department held a bid opening for Bid CD-006-16 – Demolition Services for 3 Residential Properties. The properties to be demolished are 403 E. Winslow, 807 E. Stephenson and 517 E. Winneshiek. The demolitions are to be funded with budgeted city demolition funds and are not part of the Blight Reduction Program or any other larger program. The City does not take title to properties after demolition, and actively seeks to alert neighboring property owners that they may have the opportunity to purchase the underlying property post-demolition. This has been the City's standard operating procedure for many years.

Bids were solicited as a package for all three demolitions (one price to complete all three). The bid tab has been provided as an attachment to this memo. The apparent low bid was JMP Trucking, Inc. in the amount of \$22,000. At this time I am recommending award to this firm in the same amount.

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Aldersperson Klemm stated his concerns on the selection of houses and asked why we are spending \$22,000 at the beginning of a fiscal year. Mayor Gitz explained these structures are deemed to get demolished and they are located at 403 E. Winslow, 807 E. Stephenson and 517 E. Winneshiek.

Aldersperson Klemm stated his concerns with the selection of houses. Community Development Director explained these are the properties that are ready to go because they have titles available and they deemed these to be a priority to demolish.

Aldersperson Klemm stated there is a house on West Avenue that is boarded up, an eyesore in worse shape and on a main corridor.

Discussion was held on how Mayor Gitz, Public Works Director Tom Dole, former BRP grant coordinator and the Building Inspector selected these three houses and the process they use which takes time and legal process to get to this point. It was explained that once the house is demolished the City will place a lien on the property. Mayor Gitz explained that although liens have been placed on the property it is hard to collect.

Aldersperson Klemm stated he knew of a vacant house that has a chimney that is about to fall down and it is not on the BRP list. Mayor Gitz asked if he could provide to him the address after the meeting.

Mayor Gitz suggested having a presentation on the BRP II and the demolition criteria at an upcoming Committee of the Whole meeting but at this time he would like to keep the line moving on this project.

Aldersperson Koester moved for approval of JMP Trucking as low bidder, seconded by Aldersperson Ross. The motion for adoption of the resolution prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Koester and Chesney (6)

Nays: Klemm (1)

Mayor Gitz noted that there were 26 structures that have come down at the beginning of the year and have had 23 with about 5-10 on the BRP so that we are working up to 50.

MAYOR'S REPORT

Mayor Gitz provided an update on union negotiation and stated they have been asked to discuss the Fire Union contract before going to arbitration. He stated for the Police Union contract the date scheduled for the end of July has been moved to August. He is allowed through the code to contract with attorneys. Mayor Gitz provided an update on the Modern Plating demolition of buildings per the Brownfields grants and he will email out photos.

COUNCIL ANNOUNCEMENTS/NEW BUSINESS

Aldersperson Ross asked about the Department of Natural Resources grant and was provided an update by Mayor Gitz that the intent is to take down the former Martin Luther King building if it fits in the grant. He noted it will be a costly building to take down and could take a large portion of the budget dollars for demolitions so that is why they would like to be able to use a grant if possible. Aldersperson Ross noted people are using it as a dump site. Director Dole stated he had a crew there today clearing brush and to open the alley.

Aldersperson Busker announced there will be a neighborhood watch for the 5th Ward tomorrow evening at the 1st Church of the Nazarene. Aldersperson Busker asked if there was a place for residents to take brush. Mayor Gitz stated the transfer station is where residents can take brush.

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Aldersperson Koester stated there will be a meeting of the Sky Concert 2017 committee on July 29, 2016 at the Freeport Public Library.

Aldersperson Chesney asked to the conversation started they have brought forth a request for proposal for legal services. He noted the purpose is to find out what the going rates to compete for our business. He stated it is to find out if it is reasonable as to why pay the rates we pay. It will be a summation and not binding to be used as advice and consent. It will help for budgetary reasons. Mayor Gitz noted this will be discussed under Item 14, 15 and 16 on the council agenda.

Aldersperson Klemm stated next Tuesday is Ward 1 and 6 neighborhood watch meeting at Schwarz chapel. He noted discussion held on the water infrastructure was a good start to the education process.

Aldersperson McClanathan asked on the process for the downtown ADA grant. Director Mills stated he has finished draft and has plans to have RAMP look at. He would like to obtain input from them and then will be able to accept applications. This process will have a committee to review the application. It is not set in stone but he could possibly have ready by September in order to have the grant award reviewed by council.

McClanathan thanked Chief Barkalow for the Conversations over Pizza which noting it had a good turnout.

REPORTS OF OTHER DEPARTMENT HEADS

Fire

Fire Chief Miller is preparing a bid specification sheet for the battalion chief vehicle. He will be going out for bid in August. Chief Miller stated this morning the Freeport Firefighters along with Mayor Gitz and Aldersperson Busker attended the funeral service for Lt. Eric Kohlbauer who passed away during a Fire Service Line of Duty and noted may he rest in peace.

Police

Chief of Police Todd Barkalow Chief Barkalow stated they will have conversation on July 20 at Hosmer. Chief Barkalow stated they have for sent bid requests for squad cars and will have them ready for council approval the first meeting in August. He noted what has recently happened around nation has taken toll on officers. His hope is for all of his officers to stay safe and they will continue their training.

Water

Director Glendenning stated he has conducted an inspection of wells. They recently found an issue with a well and put through the required rehabilitation at a cost of \$62,000. It has now tripled its production of water. He noted that they were losing 19 million gallons so it was a much needed project.

Public Works

Director Dole provided to the council written reports. He had no further report at this time.

Library

Director Dickerson was present and had no report.

Finance

Director Bernadelle stated he has been working on the audit. He stated he had to go back to May 1 to balance the account and there are only so many hours in day to prepare for the audit.

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MONDAY JULY 18, 2016 at 6:00 P.M.**

COUNCIL REQUESTED ACTION ITEMS

As requested by the Committee of the Whole on July 11, 2016: Discussion of a referendum question for the MFT Street Program to find a funding source for addition street improvement projects in the City of Freeport, Illinois

Mayor Gitz stated that council driven questions must be filed by August 22, 2016. They have to be worded in a precise yes or no question. For example, "Should the City raise its gas tax by X amount?"

Aldersperson Chesney prefers that it was during a City election and will discuss this further with the mayor.

Mayor Gitz stated there can be no more than three questions on a ballot. He stated that nothing to say that it has to be this election. He noted that at the last Committee of the Whole the City Engineer made a case to be able to do more street projects there has to be more funds to pay for it.

Aldersperson McClanathan asked for further clarification on the three questions. Mayor Gitz explained we would be restricted to no more than three questions per unit of government. We are talking about City questions, not candidates.

City Engineer Gallagher explained the question would need to be worded to mention the need for improvements in the amount of \$600,000 equivalent. He noted that would be equivalent to a 5 cent gas tax or percent increase in sales tax, depending on how much funding you request and how much you receive. He stated that if the State of Illinois doubled the MFT tax, which is currently at 19 cents, it would cover it. In order to do more projects you need to generate revenue to adopt funding to stretch it farther.

Aldersperson Koester asked if there was a time frame to put a question on a ballot to receive money. Mayor Gitz answer we would not receive any money because it would be an advisory referendum.

City Engineer Gallagher noted that the sales tax can only be filed with the Illinois Department of Revenue two times per year. It takes vendors to reprogram 3-6 months.

Aldersperson Busker asked if this could wait until next spring.

City Engineer Gallagher stated then next year's funding will be status quo.

Aldersperson Klemm asked how Rockford got their funding for street improvements. It was answered that it was tied to sales tax and that tax was renewed recently.

Aldersperson Miller spoke about the importance to educate. People would need to go door to door before implementation or it will fail. It needs to explain what they would get for their dollar.

Discussion was held on having town meetings, getting information on website and crafting a question for gasoline tax or Sales Tax.

Mayor Gitz noted that per state election law that the governing body can't take a position of advocacy on the issue. He stated explained it is ok to educate but the municipality can't pay for publications and once it is on the ballot it would constitute advocacy.

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Have town hall meeting. Have but can't do mailing. Sharing info lead up to this. 1) clarify 2) meetings and discuss now not on the ballot take into account.

Mayor Gitz stated this can be placed on the Committee of the Whole discussion. He noted that August 22 is the cut off for November.

Aldersperson Klemm moved to have this item for discussion at the August Committee of the Whole, seconded by Aldersperson Busker. Mayor Gitz stated we will see this at the August Committee of the Whole.

Discussion of a Request for Proposals - Legal Services, General Municipal Law presented by Aldersperson Klemm and Chesney

Aldersperson Klemm stated he has had a conversation with Mayor Gitz. He noted what they are looking for are the costs and they are not looking to say what to do.

Mayor Gitz stated he would like to defer the request for proposal because he has a problem with it.

Aldersperson Chesney stated the purpose is to test the market. He stated this is not asking for the services to go to low bidder. Once the results come in we may like or not like. He noted as of Friday not under contract. He has been reviewing the invoices. He stated that Mary Riordan has not been paid. He would like to know what the impact of budget will be. He would like us to pay a fair price for legal services and to know what a good price is by seeing what the market holds.

Mayor Gitz stated this draft has had no input of staff. He spoke about this being a crucial function of the City and you can't just go with the firm that has the best price. He stated the decision of who is the legal counsel is afforded to decision to the Chief Executive officer and it is the mayor who appoints the licensed attorney.

It was decided to send list of suggestions for a sample RFP to incorporate and communicate further on this with Aldersperson Klemm and Aldersperson Chesney.

Aldersperson Klemm moved to refer this item to the August Committee of the Whole, seconded by Aldersperson Chesney. Motion prevailed by voice vote without dissent.

Discussion of Committee structure and adding people to council committees as presented by Aldersperson Klemm and Chesney

Aldersperson Klemm stated he has been at some neighborhood watch meeting and has seen some sheets of paper passed around for people to sign up who are interested in serving on boards and commissions. Recently there have been multiple meetings of boards and commissions where they have not had enough members present to have a quorum. He asked Mayor Gitz if he needs some recommended names for people to serve on boards and commissions.

Mayor Gitz stated there was a list of people and they have been looking for people with specialties. They recently had a member resign who added value to that commission and a level of diversity. We need to balance and try to get more women on these committees and to look for qualified candidates to serve these boards.

Discussion was held on attending meetings of civic organizations in order to find new persons willing to serve. Mayor Gitz stated he will be working to fill those vacancies. Mayor Gitz offered to provide a list of positions that need to be filled.

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MONDAY JULY 18, 2016 at 6:00 P.M.**

PUBLIC COMMENTS – AGENDA OR NON-AGENDA ITEMS

Linda Johnson stated she has a few questions for Tom Glendenning. She asked how many wells there are in the Freeport water system. Director Glendenning stated there are six wells. She asked how often checked he needs a full inspection of these wells. Director Glendenning stated it should be done every three to five years. Ms. Johnson stated that this is a task that should not be put off for financial reasons because it affects life and safety and it needs to be done in a timely manner. She would understand and support water system improvements of this sort if they are asked to pay more.

Tom Teich stated he won an award for bowling in the Special Olympics. He stated he will not support a city manager and he is looking forward to Rosati's opening.

Aldersperson Klemm requested that there be presentations by Director Glendenning and City Engineer Gallagher on the water/sewer and street infrastructures immediately following a 1st and 6th Ward neighborhood watch meeting.

Upon a motion duly made and seconded by Koester/Miller, the meeting was adjourned at 9:23 PM

s/ Meg Zuravel

Meg Zuravel
City Clerk