

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

COMMITTEE OF THE WHOLE REPORT REGULAR MEETING Monday, October 13, 2015

1. CALL TO ORDER

The regular meeting of the Freeport, Illinois, Committee of the Whole was called to order by Mayor James Gitz with a quorum being present at 6:00 p.m. on Monday, October 13, 2015, in council chambers.

2. ROLL CALL

Present on roll call: Mayor James Gitz and council members Tom Klemm, Peter McClanathan, Art Ross, Jodi Miller, Patrick Busker, Sally Brashaw, Michael Koester and Andrew Chesney (8).

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

3. PLEDGE OF ALLEGIANCE

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

4. PUBLIC COMMENTS – AGENDA ITEMS

Ed Mulligan, 615 S. Burchard, Freeport Illinois, spoke in regard to agenda item #6 and stated he has concerns about the walking/bike trail proposed for Burchard Avenue. He explained that he attended a meeting at the Freeport Arts Center and heard about the plans for the project. They do not want an eight foot path in their front yard. He explained that based on the size of their front yard, this would only allow for seven and one half foot left for his front yard. He stated he did not know that the right of way in on Burchard measured 66 feet. He asked for reconsideration for the placement of the walking path/bike path on Burchard and to move it to an area along the City Cemetery.

5. MINUTES

The minutes of the August 17, 2015 special meeting, the September 14, 2015 regular meeting, and the September 21, 2015 special meeting were presented for approval. Alderperson Koester moved for approval of the minutes, seconded by Alderperson Chesney. Motion prevailed by voice vote without dissent.

Mayor Gitz requested leave of council to remove items #11 (Waste Water Treatment Plan design build financing information) and #12 the Freeport Stephenson County Convention and Visitors Bureau agreement.

6. <u>DISCUSSION OF URBAN MULTI-USE TRAILS AND CONCEPTUAL ROUTES WITHIN THE CITY OF FREEPORT</u>

City Engineer Shaun Gallagher stated tonight he is looking for direction from the council to replace the existing conditions contained in the bid document for the Water and Sewer Phase B project. He provided a copy of the document for viewing prior to the meeting in council chambers. He explained that when the Water and Sewer project was brought forth there was inclusion in discussion of multiuse trails. He has had various discussions with the Freeport Park District and bike clubs in Freeport in order to extend bike paths and make safe routes for schools. He explained that typically these multiuse trails are built at an eight foot width. That width is what the City prefers to use although Illinois Department of Transportation requests a ten foot width. He explained how the Jane Addams Trail and Pecatonica Prairie Path sections utilized the eight foot width.

City Engineer Gallagher explained he has been requested to find a way to add additional multi use trails in areas in Freeport. Consideration has been made to run with traffic in a designated lane and it can be located on each side of the street. He explained these are typically five feet wide but just as was done on Van Buren it eliminated parking on one side of the street. He explained that even though it is marked clearly you still have delivery trucks parking over the marked trail.

City Engineer Gallagher stated he has had meetings with the bike clubs and the Freeport Park District to discuss what the future area which could be tied together with the schools and parks and to choose a priority and find connectivity. City Engineer Gallagher explained a map outline the different sections colored in purple, read and blue indicated proposed areas where a multi-use trail could be added to connect schools and parks. He explained how this ties into the work being done for the Phase B project because the area along Burchard Avenue from American to Lincoln will need to be constructed to install the water mains. Because of the work planned to move the mains from the street to the parkway due to the closeness of the sanitary sewer system the project involves replacement of the sidewalks and that is why they proposed the multi-use path. City Engineer Gallagher explained that the put in the plans to replace them with a trail. He asked council at this time if they wanted to pursue. He explained the cost differential using the work recently completed on the Jane Addams Trail section and Van Buren and Linden as his cost comparison. He explained that it did not cost any more dollars to put in the multi-use trail in comparison to putting in sidewalks. He is interested in pursuing grants funding from ITEP and safe routes to school grant dollars.

City Engineer Gallagher explained on the map the Phase B project. He explained the Phase B improvements in the Burchard and Harlem project areas which could be starting soon. Future planning would include 1) determination of location 2) draft ordinance to allow for multi-use trail 3) determine funding and priority 4) draft of an intergovernmental agreement with the Park District in regard to upkeep and maintenance 5) Possible construction in 2016 with the water main project. From the meeting that were held at the Freeport Art Center and based on the public comments, it is recommended at this time that no trails be constructed on Burchard Avenue and that there will need to be public comment period before consideration is given to Empire and Park Boulevard.

City Engineer Gallagher stated the project on Harlem Avenue is delayed to next week. The work will not begin on Burchard Avenue in 2015. After discussing with the Freeport Park District they have recommended not moving forward with a Burchard multi-use trail. There will be further discussion on Empire and Park Boulevard. Mayor Gitz stated he recommended not eliminating parking on Empire

Street. Council members provided their input and stated their thanks for not moving forward with a multi-use trail on Burchard. Council recommended continuing the discussion to add a multi-use trail in the area of Empire and Park Boulevard and possibly the area of Park Crest and Laurel where there are not currently any sidewalks. Council suggested that a trail could be placed along the cemetery baring any opposition. Alderperson Busker noted if you extended a multi-use trail along Empire toward Aquin you would come up with the same scenario because front yards may not accommodate due to their width of their front yard.

7. As requested at the October 5, 2015 council meeting further discussion of: ORDINANCE #2015-53: AN ORDINANCE AMENDING CHAPTER 290 (COMPENSATION AND BENEFITS) SECTION 290.11 (LEAVES OF ABSENCE "VACATION LEAVES") OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT

Provided in the Committee of the Whole packet was the following draft ordinance that was not placed on the floor at the meeting of the council on October 5, 2015 but was instead forwarded to the Committee of the Whole meeting:

ORDINANCE NO. 2015-53

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS as follows:

<u>Section 1.</u> That Chapter 290 – COMPENSATION AND BENEFITS, Section 290.11(a)(1) and entitled "LEAVES OF ABSENCE. Vacation Leaves" and 290.01(a)(7) of the Codified Ordinances of the City of Freeport, Illinois shall be respectively amended and created to read as follows:

"290.11 LEAVES OF ABSENCE.

(a) Vacation Leaves.

(1) <u>All</u> employees who, as of their anniversary date every year, attain the years of continuous service with the City as set forth below, shall receive vacation with pay as follows:

Continuous Service	<u>Vacation Earned</u>
Less than 1 year	8 hours for each month of cont service, to a
·	maximum of 80 hours
1 year to 7 years	80 hours
8 years to 13 years	— 120 hours
14 years to 19 years	— 160 hours
20 years and up	200 hours

(a) Vacation Leaves.

Effective January 1, 2016, all employees shall receive vacation with pay as follows:

From the date of entry to the last day of year 8 - 80 hours yearly at 3.08 hours per pay period.

From the first day of year 9 to the last day of year 14 – 120 hours yearly at 4.62 hours per pay period.

From the first day of year 15 to the last day of year 20 - 160 hours yearly at 6.15 hours per pay period.

From the first day of year 21 forward – 200 hours per year at 7.69 hours per pay period.

The Fire Chief <u>and the Police Chief are is</u> delegated the authority to adopt rules to implement this paragraph so that the same shall apply equitably to <u>sworn personnel in</u> his or her Department.

Part-time permanent employees shall earn vacation and holiday pay on a pro-rated basis to that of a full-time employee.

- * On the effective date of this change, each employee shall be credited with the amount of vacation on a pro-rata basis since their last anniversary date.
- (2) Absence on account of sickness, injury or disability in excess of that hereinafter authorized for such purpose may, at the request of the employee and within the discretion of the department head, be charged against vacation leave allowance. Nothing in this paragraph shall be construed to override or be in conflict with the City's FMLA policy
- (3) Each department or office head shall keep records of vacation leave allowances and shall schedule vacation leaves with particular regard to the seniority of employees, to accord with operating requirements and, insofar as possible, with the request of the employee.
- (4) During the vacation herein provided for, the employee shall be entitled to full pay for such period at the regular rate of compensation, provided, however, that hourly employees shall be compensated on the basis of straight time for eight hours per day, forty hours per week, and no vacation benefits shall be paid on the basis of time and one-half.
- (5) In the event that a paid legal holiday as prescribed in this chapter falls during the vacation period herein provided for, the vacation period shall be extended one working day.
- (6) At least thirty days must elapse from the date of termination of a vacation taken in one vacation year before an employee may take a vacation in the succeeding vacation year.
- (6) An employee may not carry-over more than four (4) weeks unused vacation hours as determined on their respective anniversary dates subsequent to November 1, 2017. The Fire Chief and the Police Chief are delegated the authority to adopt rules to implement this paragraph so that the same shall apply equitably to sworn personnel in his or her Department, with due consideration to staffing needs."
- <u>Section 2.</u> This Ordinance shall be effective immediately upon its passage by the City Council, its approval by the Mayor, and its publication as provided by law.

<u>Section 3.</u> This Ordinance is expressly adopted pursuant to the Home Rule Powers of the City of Freeport under Section 6 of Article VII of the Illinois Constitution of 1970.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are repealed insofar as they conflict.

<u>Section 5.</u> If any section, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid, and this City Council hereby expressly declares that it would have enacted this Ordinance even with the invalid portion deleted.

Corporation Counsel Griffin stated she has provided a copy of an arbitration opinion on how to read continuous service. She provided an opinion of Robert T. McCabe of Ancel Glink dated October 13, 2015. Attorney McCabe provided, "The issue in this case, as I understand it, is that there is some disagreement within the City as to how the current vacation policy is interpreted and applied. This disagreement stems from the interpretation of when an employee becomes eligible for certain amounts of vacation set forth in the vacation policy. The issue turns upon the meaning of the phrase "continuous service." The City's vacation policy provides differing amounts of vacation time based upon an employee's number of years of continuous service."

Attorney McCabe continued by stating, "The way I interpret the current language, an employee is not eligible to earn an increased amount of vacation leave until such time as the employee has completed the minimum number of years of service necessary to earn the particular allotment of time. In other words, when the policy says that an employee earns 120 hours of vacation time if the employee has 8 years through 13 years of "continuous service," I interpret that to mean that the employee must have completed, not started, his or her 8th year of continuous service prior to being eligible to earn 120 hours of vacation time.

Attorney McCabe continued by stating, "Any other interpretation would render the policy language meaningless. The policy language is clear in that it states exactly how many years of "continuous service" are necessary to earn set amounts of vacation time. If, for instance, 120 hours of vacation time could be earned at the completion of 7 years, the language which stated that 120 hours of vacation time is earned for employees with between 8 and 13 years of continuous service would be meaningless, because employees would really be entitle to 120 hours after 7 years of continuous service, not 8. This same conclusion was reached by Arbitrator Stephen Briggs in 1999 when the police union tried to convince him that an employee was eligible to earn 120 hours on day one of the 8th year of employment. Arbitrator Briggs disagreed with this interpretation of the language, as do I."

Attorney McCabe provided a copy of the Arbitrator Briggs 1999 Opinion Interpreting Vacation Accrual Language. The outcome of this Arbitration was that Arbitrator Briggs did not agree with the Unions' interpretations and ruled in favor of the City. The City's position was that the vacation time was not accrued at the higher rate until the employee completed the first year of service in the category specified to earn the higher rate (again, 8-13, 14-19 etc.). The strong implication from that is that the Grievant was required to have 8 years of continuous service before becoming eligible for 120 hours vacation.

Corporation Counsel Griffin stated she drafted the amended language with no changes other than making it easier to read. She stated she verified recently with Denise Scudder and that is what she uses and she stated that was verified by email the last couple of weeks.

The following was reviewed:

Vacation Leaves.

Effective January 1, 2016, all employees shall receive vacation with pay as follows:

- From the date of entry to the last day of year 8 80 hours yearly at 3.08 hours per pay period.
- From the first day of year 9 to the last day of year 14 120 hours yearly at 4.62 hours per pay period.
- From the first day of year 15 to the last day of year 20 160 hours yearly at 6.15 hours per pay period.
- From the first day of year 21 forward 200 hours per year at 7.69 hours per pay period.

Discussion was held on the section reading as follows:

(6) An employee may not carry-over more than four (4) weeks unused vacation hours as determined on their respective anniversary dates subsequent to November 1, 2017. The Fire Chief and the Police Chief are delegated the authority to adopt rules to implement this paragraph so that the same shall apply equitably to sworn personnel in his or her Department, with due consideration to staffing needs."

Alderperson Chesney requested an amendment to make a change in the proposed ordinance from four to five week carryover. This motion was seconded by Miller. The motion prevailed by a roll call vote of: Yeas: Klemm, McClanathan, Ross, Miller, Busker, Brashaw, Koester and Chesney (8) Nays: None

Alderperson Chesney made a motion to refer the amended ordinance back to council. There was no second on this motion.

It was noted that the AFSCME contract has wording that an employee has to complete seven years of service to obtain the next level of vacation.

Finance Director Haggard stated that in her opinion that one through seven years seems equitable. She stated she talked to Denise Scudder and she told her a different story as to vacation years.

Chief Barkalow stated the Police bargaining contract states the last day of the seventh year for the employee to earn an additional week of vacation.

Alderperson Miller made a motion for an employee to earn vacation to be in line with the Police Union Contract. This motion was seconded by Alderperson Koester. Motion prevailed by a roll call vote of:

Yeas: Ross, Miller, Busker, Koester and Chesney (5)

Nays: Klemm, McClanathan, and Brashaw (3)

It was requested for Finance Director to calculate the cost to the City to change to this structure of vacation earned (eight years to seven years, etc).

Alderperson Koester recommended extending the November 1, 2017 date to allow employees to use their vacation time.

Mayor Gitz noted the wording is included that the Fire Chief and Police Chief are delegated authority to adopt rules to implement this paragraph so that it can be equitable to sworn personnel with consideration of staffing needs.

It was recommended that if changes are made to the vacation policy then the employee handbook will need to be re-written.

Alderperson Chesney made a motion to refer this ordinance to the next Committee of the Whole for further discussion, seconded by Alderperson McClanathan. Motion prevailed by voice vote without dissent.

8. <u>FINANCE DIRECTOR CYNTHIA HAGGARD TO PRESENT A REVIEW OF CASH</u> ANALYSIS – VIEW ANNUALIZED REVENUES VIEW ANNUALIZED EXPENDITURES

\$ 4 126 751 86

Director Haggard provided the following document:

Beginning Cash September 30, 2015

Cash Flow Analysis

Deginning Cash September 50, 2015	\$ 4,120,731.60
Increases in Cash to FYE	* ** ** ** ** **
General Fund remaining revenue	\$ 10,207,109.74
Blight Reduction Program	\$ 15,000.00
Reserve from Bond	\$ 150,000.00
Total Inflows	\$ \$ 10,372,109.74
Decreases in Cash to FYE	
General Fund remaining expenditures	\$ (10,560,630.35)
Transit Grant	\$ (990,000.00)
MFT	\$ (137,000.00)
MFT	\$ (140,000.00)
MFT	\$ (53,000.00) Winter Projects
MFT	\$ (45,000.00) Engineer Reimbursement
Loan Payoff	\$ (173,300.00)

Projected Ending Cash April 30, 2016 \$ 2,326,287.02

Director Haggard stated she projects the ending cash to be \$2.3 million. She recommended getting the prepaid penalty into the budget and to put a supplement ordinance together so that when the time is appropriate that the loan could be paid off. Director Haggard stated the amount budget for the transit program outflow is aggressive (\$990,000).

Total Outflows \$ (12,009,630.35)

Discussion was held on the invoiced amount for the Jane Addams Trail. City Engineer Gallagher stated he invoiced the members in 2013 and we are still owed \$27,000 and then in 2014 he invoiced another \$55,000. Stephenson County has not paid their portion to date. He stated there is still \$80,000 to \$100,000 that he has not invoiced to the members. He noted the Stephenson County paid their portion for the roundabout improvements and he does not have the remaining invoice from the State. Alderperson Chesney asked are we giving a loan to the County. He asked when they are expecting to pay us back. City Engineer Gallagher explained the 2/7 split of members for Stephenson County, Freeport Park District and the City and the 1/7 split for the Village of Orangeville and they will be sharing the 20% split of the project. City Engineer Gallagher explained that any lead agency takes on the burden for front the local share. City has set aside the grant match. The County is working on paying the Freeport Park District for the trail bridge by paying them \$33,000 per year. He spoke to the County and they said they are working to begin to repay the City but they do not expect to pay in 2016 either. Alderperson Koester asked what the alternatives are for the City to get money. Mayor Gitz stated the County needs to get the amount into the budget. He will discuss with the County Administrator and the Board Chair.

The council provided their concerns with the State of Illinois not passing a budget to pay the money owed to the City. The next item is about the loan payoff and that amount will be determined to be \$170,000 because a portion was in the budget for the payment.

9. AS REQUESTED BY ALDERPERSON MCCLANATHAN AND CHESNEY – DISCUSSION OF A SUPPLEMENT TO THE APPROPRIATION ORDINANCE FOR FY 2015-2016 TO PAY OFF NOTE PAYABLE IN AN AMOUNT OF APPROXIMATELY \$204,000 FROM THE ORIGINAL NOTE OF \$425,000.

Discussion was held on the stability of the City's finances if the council were to recommend this early pay off of the note. Director Haggard explained that the cost at this point would be about an additional \$170,000 based on a payment that is due in October. She will need to check on the cost for the early payment and see what that amount would be.

Alderperson Chesney made a motion to move forward with the loan pay off and recommend to council a supplement to the appropriation ordinance in order to pay off the note payable. This motion was seconded by Busker. The motion prevailed by a roll call vote of:

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

Nays: Brashaw and Koester (2)

10. AS REQUESTED BY ALDERPERSON MCCLANATHAN AND CHESNEY - DISCUSSION OF AN AMENDMENT TO CHAPTER 290 (COMPENSATION AND BENEFITS) SECTION 290.01 (CLASSIFICATION PLAN) OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT (POSITIONS NOT COVERED)

The ordinance as drafted included the following:

ORDINANCE NO. 2015-

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS as follows:

<u>Section 1.</u> That Sections 290.01 (e) entitled "Positions Not Covered" of Chapter 290 – COMPENSATION AND BENEFITS of the Codified Ordinances of the City of Freeport, Illinois shall be amended to read as follows: "290.01 CLASSIFICATION PLAN.

(e) Positions Not Covered. The wage provisions of this chapter shall not apply to elected officials and members of boards and commissions, nor to:

(1) The Corporation Counsel;
(2) Employees of the Board of Water and Sewer Commissioners;
(3) Employees of the Library;
(4) The Finance Director; or
(5) City Accountant.

(e) Positions Not Covered. The wage provisions of this chapter shall not apply to:
(1) Elected officials and members of boards and commissions;
(2) Employees of the Board of Water and Sewer Commissioners;
(3) Employees of the Library;
(4) To the employees contained in the following chart:

<u>Position</u>	Salary as of the effective date of this Ordinance
Corporation Counsel	<u>\$109,428.80</u>
Finance Director	<u>\$ 94,952.00</u>
Community Development Director	<u>\$ 58,011.20</u>
City Accountant	<u>\$ 35,006.40</u>

Employees contained in the above chart shall have an annual salary as approved by the City Council in the Annual Appropriation Ordinance or as from time to time amended by ordinance of this City Council."

<u>Section 2.</u> This Ordinance shall be effective immediately upon its passage by the City Council, its approval by the Mayor, and its publication as provided by law.

<u>Section 3.</u> This Ordinance is expressly adopted pursuant to the Home Rule Powers of the City of Freeport under Section 6 of Article VII of the Illinois Constitution of 1970.

Section 4. All ordinances or parts of ordinances in conflict with this Ordinance are repealed insofar as they conflict.

<u>Section 5.</u> If any section, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid, and this City Council hereby expressly declares that it would have enacted this Ordinance even with the invalid portion deleted.

Alderperson McClanathan noted it would be prudent to return the City Accountant to the salary charts to enable that position to receive longevity increases.

Mayor Gitz recommended the ordinance add directives before a COLA and longevity for those exempt positions, to take into account the full cost of the employee and third if they were a non-longevity position then how would it get a raise.

Alderperson McClanathan explained that he asked to have the ordinance drafted so that the salaries are disclosed to the public and these are the salaries as of the effective date of the ordinance and any changes would need to be approved by the council.

Discussion was held removing the wording that refers to the "Annual Appropriation Ordinance" and instead would be the salaries as of the effective date and as approved by council by ordinance. Corporation Counsel Griffin was directed to make that change.

Alderperson Chesney made a motion to make the amendment as directed to Corporation Counsel and to recommend the ordinance to the next council meeting, seconded by Alderperson McClanathan. Motion prevailed by voice vote with one dissenting vote from Alderperson Koester.

Corporation Counsel Griffin explained that her position has gotten longevity at the time of the Appropriation Ordinance as calculated by Accountant Duane Price and annualized.

It was discussed whether the council should proceed to take the accountant position off the chart. Alderperson Klemm recommended leaving it on.

FOR ITEMS 11 AND 12 ON AGENDA SEE BELOW:

Two items were removed from the agenda at the beginning of the meeting including Item #11 (Update by Water Sewer Director Glendenning on design-build financing for the aeration blowers at the Waste Water Treatment Plant) and Item #12 (Discussion of the Freeport/Stephenson County Convention and Visitors Bureau agreement).

13. EXECUTIVE SESSION (CLOSED SESSION) PURSUANT TO 5 ILCS 120/2

Alderperson McClanathan made a motion to enter executive session and read aloud pursuant to 5 ILCS 120/2 (c) (1) the appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. This motion was seconded by Alderperson Chesney.

Mayor Gitz stated the item is not on the agenda and consulted with Corporation Counsel Griffin.

Alderperson McClanathan explained there is case law to allow you to go into closed session if the closed session exception was not listed on the agenda if it is in relation to an item on the agenda. He stated it pertains to an item on the agenda and then explained it applies to agenda item number 10. The motion to enter executive session prevailed by a roll call vote of:

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

Nays: None

The time was 8:25 p.m.

At 8:42 p.m., Alderperson McClanathan made a motion to return from executive session. This motion was seconded by Alderperson Chesney. The motion to return from executive session prevailed by a roll call vote of:

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

Nays: None

14. PUBLIC COMMENTS – AGENDA OR NON-AGENDA ITEMS

There were no public comments.

15. ADJOURNMENT

Upon a motion duly made by Alderperson Klemm and seconded by Alderperson Brashaw, the meeting was adjourned at 8:42 p.m.

S/ Meg Zuravel

Meg Zuravel, City Clerk