



**City Council**

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

---

**COMMITTEE OF THE WHOLE REPORT  
SPECIAL MEETING  
Monday, September 21, 2015**

---

**1. CALL TO ORDER**

The special meeting of the Freeport, Illinois, Committee of the Whole was called to order by Mayor James Gitz with a quorum being present at 5:00 p.m. on Monday, September 21, 2015, in council chambers.

**2. ROLL CALL**

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

City Staff Present: Corporation Counsel Sarah Griffin, Finance Director Cynthia Haggard, Public Works Director Tom Dole, Fire Chief Scott Miller, Chief of Police Todd Barkalow, City Clerk Meg Zuravel.

**3. PLEDGE OF ALLEGIANCE**

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

**4. PUBLIC COMMENTS – AGENDA ITEMS**

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

**5. AS REQUESTED BY ALDERPERSON KLEMM AND CHESNEY - CHAPTER 1270, FENCES (VARIOUS AMENDMENTS)**

Two versions of the amended ordinance were provided to council members. One version was marked as “Klemm/Chesney recommendation” and one was marked as “Administration Recommendation”. Discussion was held as to the cost of surveys and whether to allow for a fence to be placed onto a property line.

A memorandum from City Engineer Gallagher was read into the record. It stated the following: “In my absence, I would like to offer the following information in regards to amending the current fence ordinance. As a Professional Engineer, as well as our prior Building Commissioner, I have prepared various types of survey plats and also witnessed numerous altercations regarding the location of existing and proposed fences. These altercations typically involve the location of the presumed property line, how close a fence is constructed to public infrastructure, and the cost of surveys and permits.

“First and foremost, without a boundary survey, you are simply guessing as to the location of your property lines. Certainly elements such as existing sidewalk, buildings, fences, trees, and other items

**COMMITTEE OF THE WHOLE REPORT  
SPECIAL MEETING  
Monday, September 21, 2015**

may provide a guide to the approximate location, but these are in no means guaranteed to be correct. A boundary survey will not only provide you with the location of all your property lines (assuming you want to build along more than one fence line), flag your existing property pins and reset pins that are missing, but provide you with a legal document that is sealed by a licensed land surveyor, which can be used in your defense in court. Residential boundary survey's often costs between \$600 - \$1200 depending on the location and size of the lot. It's also important to remember that people are often putting up a fence to separate themselves from a neighbor, so a future altercation can often be expected. Neither I, nor anyone from our office should be put into a situation in which we are approving the location of a lot line without a submitted stamped boundary survey.

Second, often times while improving or maintaining infrastructure in the public right-of-way, proximity of fences to the property lines can be an issue for the municipality. As infrastructure is replaced, grading easements are often needed to transition those improvements to the adjacent property. On many occasions we end up moving and/or replacing fences unnecessarily due to encroachments over the property line, the use of materials that may project out from the fence, or lack of proper maintenance/installation methods that cause the fence to lean into the right-of-way. It should also be noted that the edge of sidewalk has nothing to do with the right-of-way line. Typically we place sidewalk 1' – 2' off the right-of-way line, but many times it can be as much as 10' from the adjacent property. Our preference is always to give the resident a slight maintenance buffer from our facilities along the right-of-way and therefore we expect the same. Finally, In regards to some of the attachments provided in the Klemm/Chesney recommendation, I think it is important to note that the City of Freeport does not charge for a fence permit like the City of Rockford (\$48.40 and \$60.50 for fence permits depending on residential zoning), we simply require a permit to be provided to ensure the proposed work is performed in conjunction with our ordinances. This permit is not to be misinterpreted as a boundary survey, of which no current staff member employed by the City of Freeport is licensed to do. Although the fence easement agreement is an interesting approach to approving the long-term maintenance of the fencing in regards to maintenance without trespass, it should be clear to Council that this documentation comes from Rockford, Minnesota and not the Rockford, Illinois. There is also a concern in regards to thorough review of these types of agreements and there authenticity of the signature provided. Although moving fences to the property line is a very simple idea in concept, it is recommended that property owners submit a survey and maintain the existing 2' buffer from the right-of-way.

Alderson Chesney presented the version marked as "Klemm/Chesney Recommendation" and stated that there are three choices when putting up a fence. First someone can keep the two foot border away from the property line or second they can get a survey and go to the line or third they can get a fence easement by having all the interested property owners sign off and have that document recorded with the County. He stated they will make this be a notarized document and it can be a boiler plate version of the document.

Discussion was held on fence locations and what would happen if a fence was placed in the wrong location. Council members provided their concerns about the cost of a property survey.

Corporation Counsel Griffin reviewed the version marked as "Administration Recommendation" and explained that because of the concerns addressed by City Engineer Gallagher and Public Works Director Tom Dole, the administration felt this version would restrict placement of fences near alleyways and right of ways which would assist snow plowing and construction projects.

**COMMITTEE OF THE WHOLE REPORT  
SPECIAL MEETING  
Monday, September 21, 2015**

At 5:20 p.m., Alderperson Klemm entered council chambers bringing the number of members present to eight.

Discussion was held on marrying the two versions in the rear/side yards to include wording as double-underlined:

- (e) Fences in Rear/Side Yard. Fences in rear and side yards shall meet the following requirements:
- (1) No fence or wall shall exceed six feet in height in any side or rear yard. Fences not greater than six feet in height are permitted in side or rear yards and shall be no closer than two feet to the public sidewalk and no closer than two feet to any public right-of-way.
  - (2) A wall or solid fence not more than six feet in height, as measured from the highest adjacent grade, may be maintained along the interior side or rear lot lines provided such a wall or solid fence does not extend into a required front yard. **Fences may not be installed within two feet of the rear or side property line without proof of survey submitted to the Community Development Department and a copy of a notarized and recorded easement allowing for placement of the fence and maintenance access from any and all property owners abutting the location of the fence placement. No fence may be installed within two feet of the rear or side property line.**
  - (3) **Fences which exceed three feet above the street grade in side or rear yards shall not encroach within vision clearance areas.**
  - (4) No fence shall be installed in any business, professional, or manufacturing district, unless said fence is approved in conjunction with a variance granted by the Zoning Board of Appeals. If so approved, said fence shall comply with this chapter and the other requirements stated above in subsection (a). A fence shall not exceed the height established unless it is further approved in conjunction with a variance granted by the Zoning Board of Appeals.

Corporation Counsel Griffin stated the way the ordinance is currently in effect requires a party to have a property survey prior to installing a fence. Alderperson Brashaw stated that obtaining a survey of the property costs about \$300. Discussion was held that by requiring someone to obtain a variance when their fence would join an abutting fence, it requires additional paperwork and the process can be time consuming. Discussion was held that it is silly to have two property owners with fences and having those two feet off each property line puts a four-to-six foot strip in between and it is a hassle to mow and take care of. Leave of council was allowed to hear from former Community Development Director Shelly Griswold. She explained that the department did not always require a survey. If there were any disputes between neighbors then they would require a survey.

Mayor Gitz stated he recommends keeping the wording “shall be no closer than two feet to the public sidewalk and no closer than two feet to any public right-of-way.” He stated we have to have that wording in there or the chance that a snowplow will knock down a fence becomes greater. Director Dole concurred with those reasons and referred to the memorandum written by City Engineer Gallagher. He explained the issue is not only with fences but is also an issue with garages. Council members provided their agreement that the administrations version would work better in these situations.

**COMMITTEE OF THE WHOLE REPORT  
SPECIAL MEETING  
Monday, September 21, 2015**

Mayor Gitz stated he will have Corporation Counsel Griffin draft a new version based on the two versions presented this evening taking into consideration what was discussed this evening for the next City Council meeting.

Aldersperson Klemm made a motion to make the appropriate changes as discussed and put it on the first meeting in October, seconded by Aldersperson Chesney. Motion prevailed by voice vote without dissent.

**6. AS REQUESTED BY ALDERPERSON MILLER AND CHESNEY - DISCUSSION OF CHAPTER 290 COMPENSATION AND BENEFITS**

Aldersperson Miller stated she requested a review of chapter 290 to look at the vacation carry over and she would also like to review how vacation time can be carried over. She explained that she would like to cap the vacation time to be able to carry over three to five weeks so the City does not end up paying out an employee a large sum of money.

Corporation Counsel Sarah Griffin reviewed the code as written and stated it is oddly written and she explained that she recommends changing to clarify this. The section as currently written is below:

**290.11 LEAVES OF ABSENCE.**

**(a) Vacation Leaves.**

(1) All 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:

<u>Continuous Service</u>	<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 memorandum from Debra Milliman dated September 21, 2015 was provided to council members. She provided a survey to municipalities of comparable size to Freeport including Dixon, Belvidere, Sterling, Loves Park, Galesburg, East Moline, Rock Falls and Kankakee. To date, four have responded. She summarized their responses in the memorandum as to how they calculate raises for their employee, calculate sick time and their vacation policies. The memorandum also provided the AFSCME union, the Police union and Fire union vacation policies. Discussion was held that based on issues the City has faced with promoting from within the union to being non-bargaining that it is in the best interest of the City to leave this at the discretion of the Police and Fire Chiefs.

Aldersperson Chesney made a motion to recommend an ordinance drafted by the administration to amend Chapter 290 for the next council meeting in October based on the discussion this evening, seconded by Aldersperson Miller.

Finance Director Haggard noted that if she had to pay out all the accrued vacation there is a chance that there will be a \$500,000 payout because she has to calculate those amounts for the audit so she is pretty sure on that amount.

**COMMITTEE OF THE WHOLE REPORT**  
**SPECIAL MEETING**  
**Monday, September 21, 2015**

The motion to recommend the ordinance to the council passed by majority vote with one dissenting vote by Alderperson Koester.

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

There were no public comments at this time.

**8. ADJOURNMENT**

Upon a motion duly made by Alderperson Klemm and seconded by Alderperson Brashaw, the meeting was adjourned at 6:05 p.m. Mayor Gitz stated there will be two minute break before starting the council meeting.

*S/ Meg Zuravel*

Meg Zuravel, City Clerk