VILLAGE PRESIDENT
Seth Speiser

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Mathew Trout
Dean Pruett
Lisa Meehling
Ray Matchett, Jr.
Mike Blaies
Denise Albers

VILLAGE OF FREEBURG

FREEBURG MUNICIPAL CENTER
14 SOUTHGATE CENTER, FREEBURG, IL 62243
PHONE: (618) 539-5545 • FAX: (618) 539-5590
Web Site: www.freeburg.com

VILLAGE ADMINISTRATOR
Tony Funderburg

VILLAGE TREASURER
Bryan A. Vogel

PUBLIC WORKS DIRECTOR
John Tolan

POLICE CHIEF
Stanley Donald

VILLAGE ATTORNEY
Weilmuenster & Keck, P.C.

July 10, 2017

NOTICE

COMMITTEE AS A WHOLE MEETING
VILLAGE OF FREEBURG

A Committee as a Whole Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, July 12, 2017, at 7:00 p.m.**

COMMITTEE AS A WHOLE MEETING AGENDA

I. Items to be Reviewed

A. Old Business
   1. Approval of May 1, 2017 Minutes

B. New Business
   1. Executive Session to Discuss Personnel, 5 ILCS 120/2-(c)(1)

C. General Concerns

D. Public Participation

E. Adjourn

At said Committee Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss the selection of a person to fill a public position [5 ILCS, 120/2 – (c)(3)]; litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 – (c) (1)]; real estate transactions [5 ILCS, 120/2 - (c)(5)]; or collective negotiating matters between the public body and its employees or their representatives [5 ILCS 120/2 (C)(2); discussion of executive session minutes, 5 ILCS, 120/2 – (C)(21)

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Committee as a Whole Meeting
Monday, May 1, 2017
6:00 p.m.

The Committee as a Whole meeting was called to order at 6:00 p.m. on May 1, 2017 by Mayor Seth Speiser. Members present were Mayor Seth Speiser, Trustee Denise Albers, Trustee Mike Blaies, Trustee Ray Matchett, Trustee Lisa Meehling, Trustee Dean Pruett, Trustee Matt Trout, Village Attorney Fred Keck, Public Works Director John Tolan, Village Clerk Jerry Menard, Village Administrator Tony Funderburg and Office Manager Julie Polson. Guests present: Tim Pruett and Tracy Lawless of Rhutasel and Associates, Tom Carpenter (6:08 p.m.), Brian Schlueter (6:09 p.m.), Zoning Administrator Gary Henning (7:09 p.m.) and Billie Louthan (7:18 p.m.).

I. ITEMS TO BE REVIEWED

A. OLD BUSINESS:

1. Approval of March 6, 2017 minutes: *Trustee Matt Trout motioned to approve the March 6, 2017 minutes and Trustee Lisa Meehling seconded the motion.* All voting yea, the motion carried.

B. NEW BUSINESS:

1. Sewer Project: Village Administrator Tony Funderburg stated we have questions concerning the sewer project, and those questions were forwarded to Rhutasel so we could discuss them tonight. Tony is hoping to be able to come to some type of agreement concerning the issues. Mr. Lawless advised Tim Pruett has a better first-hand knowledge of the project and its issues.

   Village Administrator Tony Funderburg said our first question is why is there a large gap of time from when Haier was approved as contractor in September of 2015 until the award of the project on January 29, 2016. Tracy believes we had a notice to proceed within 30 days. Tim Pruett stated the project was bid prior to having the EPA permit. You cannot award project until you receive loan approval. He further said that EPA doesn't award you a loan based on the engineer's estimate, they want to see the actual bid. When we get a good bid, they come in and ask for us to approve the notice of intent to award. At that point, you issue it, they send it to EPA for review, and they send it back as an executable loan document. That was done in January of 2016, and the notice to proceed was issued at the February meeting. September to January was waiting on EPA.

   Denise asked if all the documents were submitted for the March 26th loan paperwork. Tracy said individuals may come back and ask for clarifications from EPA based on what they provided. Trustee Albers asked if a checklist goes with it, and Tracy said it's a standard form, but that doesn't preempt them from asking for additional information.

   Trustee Albers said in April of 2016 when the schedule was not being met, can't that be updated to more accurately reflect dates? Tim said that is a preliminary application, and Tracy said it was not updated. Those dates were hopeful but not attainable. Other concerns voiced were the easement timeline since it was based on this timeline. Based on that one it would have been met. Tracy said the easement was recorded in March.

Trustee Albers then asked why there were four jogs in the manholes on West Street. Tim said there is a water line that lays on top of the box culvert, and for them to go down the middle of the street, they were going to hit it. As they came down the hill, they put a jog in it to get around the box culvert. Then, they angled back onto the unimproved portion of West St. It was in the initial plan to get around the culvert. John said they jogged again to get around the water line by the creek. Tim said one additional manhole was put in.

Trustee Albers stated in the original meeting with them, the board felt Rhutasel should be held accountable for the extra $50,000 we had to spend to obtain the Helms easement. She is speaking for herself and not board, and stated that our Public Works Director and Village Administrator spent a lot of time on this project, having to obtain the additional easements, with all of the mistakes made by everyone, she would like people to stand up, admit that, and work to resolve the mistakes made. If that means partnering with some costs, she would like to see that. She stated Larry Rhutasel shut that conversation down. Trustee Trout said that was the turning point in this whole deal. Trustee Trout asked Rhutasel point blank in that first meeting if they would consider sharing in the costs expended, and Larry Rhutasel said there was going to be more expenses in this project and that was that.

Mayor Speiser stated he understands the extra costs in a project this size. Tim said there is a contingency in the loan, and further stated he is not happy with the way this went and understands our situation. This project has a long history with prior involvement with Helms which affected our cooperative effort. With respect to the easement, we do not prepare easements. We prepare the descriptions for the easements, and for all of those provided, it states at the bottom, this easement will expire 60 days after end of construction. They recommend temporary construction easements. On that easement as well, there is a drawing, and within that drawing, all descriptions are included, and the expiration date is also included. That didn't get followed or taken into consideration. They don't know what is being negotiated or a party to during the easement negotiations. They may provide input, but they are not authorized to negotiate on the village's behalf. Trustee Meehling said she understands that you don't get involved with that, but it was her understanding that Larry Rhutasel and Dennis Herzing worked on the easements. She stated she knows Larry Rhutasel worked on them and hand a hand in that easement, and this one was based on it. Tony said his point is when we got into it, it wasn't negotiable by the landowner. Tony stated Attorney Manion had emails that show when it was sent to Rhutasel. Tony believed we did inform them of the issues on the insurance requirements and the easements. Tim stated he won't dispute whether or not the email issue regarding the easement, insurance or the crop damage. He also stated he wishes he would have caught it. It's been a rough go. Tim believes the document came from Fred's attorney.

Trustee Trout asked if we are the ones that manage the project or are you? Who's required to manage the dates in the overall project? Tracy stated as the engineer, we provide the oversight of the design and the administration of the construction contract and construction observation. They aren't the overall manager, and further commented it doesn't exist. Trustee Meehling stated after the last meeting, she specifically asked if we have every easement that would be needed, and was told yes. She said then we found out we were boring and didn't have easements for that work. To her, that's management of the construction contract. She does not feel we got what we paid for. Further, she agrees with what Trustee Albers said about doing what need to be done make things right.

Tracy Lawless said they are here to try to and resolve matter. He knows he can't make everyone happy. He feels they do have some responsibility, but doesn't feel they are liable for the entire amount. Trustee Matchett asked if there are any additional change orders and Tim said yes. Tim said typically they do a quantity adjustment at the end of the contract to true up all the materials used. Tim said everything has been discussed with John along the way. Trustee Albers asked if they have any idea what they are going to run us, and Tracy advised they don't have the final pay request in yet. John stated there is a problem in the line, and we have agreed to let it go for six months to see if it clears up. Tim said once they get the loan, he asks us if we want the design money to get that back, or do you want it to be part of the loan. He recommends we do it at the end, but it's always a village decision. Tracy stated we have the invoices for the construction work, and Tony stated that was not clear at the beginning.

Tim Pruett said he knew they couldn't have finished the project without a construction easement. Trustee Meehling asked Tim why didn't you pull us aside after, and he said in hindsight, he wished he did. Trustee Albers stated a good working relationship means getting through the troubles and asked Tracy how he is going to make things right. Tracy doesn't think they can put a number on it. He feels they are not entirely responsible for the total amounts. He doesn't know what we feel is reasonable. He said they can't take care of the easement, it is not cost attainable for him. Trustee Trout feels that it is not right the citizens should have to cover your shortfall. We are here to protect citizens of Freeburg.

Attorney Fred Keck said asked when we should expect final numbers. Tracy advised it could be two more months before the contract is final. Tim said the limit on the construction engineering is $78,000, and we owe the six bills that have already been submitted.

Trustee Matchett requested a final number, and Tim stated we won't have the final number until at least two months down the road when Haier completely done. There is $37,491 in outstanding invoices to date, and know we have at least two more on the way. Mayor Speiser feels we should pay them what they've done to date since there is still close to $40,000 still outstanding and possibly being owed.

Trustee Dean Pruett motioned to pay Rhutasel & Associates $37,491. No-one seconded the motion and Trustee Dean Pruett withdrew his motion.

Trustee Trout asked if this could be further discussed in the next water/sewer committee meeting. Tim stated he would be happy to meet with Trustee Meehling and Trustee Albers.

2. Executive Session to Discuss Litigation, 5 ILCS 120/2-(c)(11): Not needed.

C. GENERAL CONCERNS: None.

D. PUBLIC PARTICIPATION: See above.

E. ADJOURN: *Trustee Matt Trout motioned to adjourn the meeting at 7:24 p.m. and Trustee Lisa Meehling seconded the motion.* All voting aye, the motion carried.

Julie Polson
Office Manager