

VILLAGE PRESIDENT
Ray Danford

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Rita Baker
Charlie Mattern
Kevin Groth
Corby Valentine
Steve Smith
Tony Miller

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
Dennis Herzing

VILLAGE TREASURER
Bryan A. Vogel

PUBLIC WORKS DIRECTOR
Ronald Dintelmann

POLICE CHIEF
Melvin E. Woodruff, Jr.

VILLAGE ATTORNEY
Stephen R. Wigginton

September 29, 2008

NOTICE

MEETING OF LEGAL AND ORDINANCE COMMITTEES (Annexation; Building; Zoning; Subdivision) Groth/Baker/Mattern

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, October 1, 2008, at 7:00 p.m.**

LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items To Be Discussed

- A. Old Business
 - 1. Approval of September 8, 2008 Minutes
 - 2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code
 - 3. Status of Public Hazard Homes
 - 4. TIF Litigation
 - 5. Stumpf lawnmower repair business
 - 6. Ordinance for recordings of meetings
 - 7. Ordinances for drainage easement grades
 - 8. Bill's Autobody
- B. New Business
- C. General Concerns
- D. Public Participation
- E. Adjourn

At said Legal and Ordinance 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 office [5 ILCS, 120/2 - (c)(3)], litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 - (c) (1) a.]; or real estate transactions [5 ILCS, 120/2 - (c)(5)].

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Legal and Ordinance Committee Meeting
(Annexation; Building; Zoning; Subdivision)
(Groth/Baker/Mattern)
Wednesday, October 1, 2008 at 7:00 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 7:21 p.m. by Chairman Kevin Groth on Wednesday, October 1, 2008, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Trustee Corby Valentine, Mayor Ray Danford, Village Administrator Dennis Herzing, Zoning Administrator Phil Borger and Office Manager Julie Polson.

A. OLD BUSINESS:

1. Approval of September 8, 2008 Minutes: *Trustee Rita Baker motioned to approve the August 6, 2008 minutes as amended to correct the Motion to Adjourn and Trustee Charlie Mattern seconded the motion. All voting aye, motion carried.*
2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code: Ray advised he has nothing new to report but hopes to get to it soon.
3. Status of Public Hazard Homes: Dennis advised Sheets has filed an appeal and Brian Manion has asked if we wish to proceed with the appeal process or take a different approach. The committee agreed to continue with the appeal process. We will be setting a precedent for future value to the Village in similar situations.
4. TIF litigation: Dennis and Ray had a meeting with Attorney Wigginton this morning. It will be discussed at the October 6th board meeting. Attorney Wigginton will be present.
5. Stumpf lawnmower repair: Dennis advised Mr. Stumpf has hired an attorney who has requested a meeting with Dennis to review the special use permit process. Brian Manion has advised he has no problem with that meeting. Dennis wanted confirmation from the committee that our primary goal is to get Mr. Stumpf to stop his business and disrupting the neighborhood. Rita said it has been business as usual. Brian Manion told Dennis we should document and monitor the situation.
6. Ordinance for recording meetings: A copy of this ordinance was provided at last month's meeting. Dennis advised it was prepared according to state statute. The committee will review it and discuss at the next meeting.
7. Ordinance for drainage easement grades: Dennis looked into the ordinance regarding special assessments for nuisances and it does not apply to this. It is very

Legal and Ordinance Committee Meeting
Wednesday, October 1, 2008
Page 1 of 3

specific to nuisances, i.e. weeds, vermin, debris. Dennis said he does not feel we should get involved in correcting a problem on private property. Corby asked how other municipalities have handled this situation. Dennis stated the plat does contain the statement where drainage easements are maintained by the property owners. This information is also contained in our ordinance. We needed to add the sentence in you can't change the drainage on your lot. The committee agreed we could enforce the ordinance by going out to the resident with the concern, explain someone caused the problem, it's on your property, we don't maintain it, you need to address the issue with the person causing the problem. Dennis will start talking to some other towns to see how they deal with this issue.

8. Bill's Autobody: Dennis advised Brian Manion will try to find something out on this and have it for next meeting. Kevin said the most complaints he receives is with regard to this property. Kevin asked if we have other properties and the money to start looking at the Ernst homestead and the Compton home. Dennis believes the Compton house is empty and also believes that is the trigger. It is much easier to get the judge to move on a case when the home is vacant. Corby said if a building is structurally unsafe, it should be addressed too. The committee agreed to have Dennis contact Steve Wigginton to start the process. He will discuss both properties with Steve.

Corby asked about the status of the Railroad Street property and if any work had been done on it. Dennis advised it is moving forward. There had been a question about sprinkling the building and he agreed to do it.

Dennis brought up the impact fees stating the ordinance was written with the intent to receive impact fees from new subdivisions. We realized we had to find a way to deal with the multi-family lots in the new subdivision. We did that by charging \$1,500 for the lot when the plat is filed. When a building permit is issued, they are charged \$1,500 for additional dwelling units if you build a multi-family dwelling. On an existing building where it is being rehabbed, should an impact fee be charged? Dennis and Phil both believe the impact fee should not apply to that situation and also not to the subdivisions that were already platted when the ordinance was created. We did not charge the lots behind the shopping center, nor the duplex in Vollmer's subdivision. Dennis does not think a change to the ordinance is required. He said we don't have too many more empty duplex lots to be built on. The committee agreed it should only be on subdivisions platted after the creation of the ordinance.

B. NEW BUSINESS:

Dennis provided a resolution to institute an Identity Theft Program. Troy Fodor presented the program and advised it will be mandatory as of November 1, 2008. He indicates we are required to establish the program because our utility accounts fall under the definition of a covered account that could be at risk. Dennis advised we have already started asking customers signing up for utilities to provide their driver's license for review. The committee will review the resolution and vote on it at the next meeting.

C. GENERAL CONCERNS: Corby asked if there is a multi-family lot and they build a duplex, do they pay the impact fee? Charlie said it should go by the plat date and Dennis agreed.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn the meeting at 8:30 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson
Office Manager

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Legal and Ordinance Committee Meeting
(Annexation; Building; Zoning; Subdivision)
(Groth/Baker/Mattern)

Wednesday, September 8, 2008 at 7:00 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 7:02 p.m. by Chairman Kevin Groth on Wednesday, September 3, 2008, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Trustee Corby Valentine, Mayor Ray Danford, Village Administrator Dennis Herzing, Public Works Director Ron Dintelmann, Zoning Administrator Phil Borger and Office Manager Julie Polson. Guests present: Janet Baechle and Carol Gentry.

D. PUBLIC PARTICIPATION:

Chairperson Groth asked that public participation be moved to accommodate guest Carol Gentry. Carol stated she has lived on Vine Street for 26 years. Mr. Stumpf is working on the lawnmowers 7 days a week, anywhere from 4 - 12 hours a day. He has told the neighbors he can do whatever he wants and put whatever he wants in his yard. Carol stated this past weekend, he had 13 lawnmowers at his house. She said people will come over, test drive them. He has also told the neighbors he makes a lot of money doing this. She feels it is escalating and the situation is getting worse. She did bring pictures in and they are attached to the packet. Chairperson Groth stated he feels this is not a permitted use and would like to pursue it that way. Dennis advised the committee we did try to pursue it by informing Mr. Stumpf by letter that operating a business in a residential district was not allowed and that he would have to request a special use permit from the Zoning Board of Appeals. Mr. Stumpf took the position that he was not operating a business. Dennis said another option would be to issue him a citation for disturbing the peace. That has to be initiated by a neighbor willing to sign a complaint. Dennis advised the committee Mr. Stumpf has not talked to the Village about this other than to request a copy of the noise ordinance. Corby said he is offering a for-sale product in his yard in a SR-1 district and further said the Village should take care of that with our code. Dennis said we could change our code by changing the definition. Charlie said he is in agreement that Mr. Stumpf is operating a business in a SR-1 district. The issue of changing the code and Mr. Stumpf being grandfathered was discussed. Ron said grandfathering would not apply for an illegal business. Dennis said if Mr. Stumpf applies for a special use permit, all neighbors would be invited to the hearing. He further said if Mr. Stumpf violates the zoning code, the penalty ranges from \$50 - \$750 per day. Corby suggested if this does go before the Zoning Board of Appeals, to make sure there are pictures and a history of the problem provided to the board so they have that information.

Legal and Ordinance Committee Meeting
Wednesday, September 3, 2008
Page 1 of 3

Trustee Rita Baker motioned to request Zoning Administrator Phil Borger cite Mr. Stumpf for violation of the Zoning Code and provide him a copy of the ordinance that is in violation of the Code and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

A. OLD BUSINESS:

1. Approval of August 6, 2008 Minutes: Trustee Rita Baker motioned to approve the August 6, 2008 minutes as amended to include citing the statutes for Executive Session of litigation, 5 ILCS, 120/2-(c)(11) and also real estate, 5 ILCS 120/2-(c)(5) and Trustee Charlie Mattern seconded the motion. All voting aye, motion carried.

2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code: Nothing new.

3. Status of Public Hazard Homes: Julie advised the committee Sheets has until September 12, 2008 to file an appeal. We have not moved any further on the Kinzinger property. Kevin requested the Kinzingers be contacted to remove the brush from their property.

4. TIF litigation: Mr. Koppeis' attorney is out of the country.

5. Stumpf lawnmower repair: Discussed under public participation above.

6. Training - Sexual Harassment: Training was conducted on 8/25/08. Kevin requested the item be taken off the agenda.

7. Ordinance for recording meetings: Dennis provided a draft ordinance and asked the committee to review it and discuss at the next meeting.

8. Huelsman water problem: Dennis advised the letter was sent to the Huelsmans. He has had several agencies contact him (i.e. EPA) and they have all told him they see nothing wrong other than where the house was built. Kevin requested this item be taken off the agenda.

9. Ordinance for drainage easement grades: Dennis will review the information provided by FEMA. Charlie would like to see if we can use this as a nuisance and tacked onto their tax bill. We need to figure out if that can be done.

B. NEW BUSINESS:

1. Bill's Autobody: Kevin said the appearance of Bill's Autobody is looking bad again. He thought Brian Manion was to be getting us information with regard to hauling off cars. Corby said this might be another opportunity to change the code on how long a car can sit there. Charlie asked how other communities handle this problem. Ron said when this had been taken care of years ago, it came down to

what he thinks is usable merchandise and what we think junk is. Dennis will check with Brian to see if there is any vehicle in place to handle this situation.

2. Motor Vehicle Code: Dennis had this placed in the packet. This was sent to him as a suggestion by Frank Heiligenstein. People using golf cards are becoming an issue and wanted the committee to have this information to review. After discussion, Kevin asked that this item be taken off the agenda.

Dennis brought up the quote Julie obtained from AT&T on local service. The committee did not discuss the quote or take any action at this time.

Kevin brought up the dusk-to-dawn lighting ordinance asking if we are following the ordinance. He brought up several businesses as an example. Ron explained it goes as far back as Dave Favre's place and explained the process we follow. Kevin said the reason he wanted to look at it is because the dusk-to-dawn light for security is different than lighting a business lot and maybe the ordinance should be looked at to see if we need to make a change and update our rates. A heated discussion followed regarding the Holtzmann annexation. Kevin said there was a lot of intensive labor that went into this project and asked if that falls under this ordinance and then asked how we came to take on this project. Dennis replied when Holtzmann wanted to annex, he also wanted us to put up lights for his horse arena. Ron explained the procedure on providing primary service to a customer and explained that it was done no differently than any other customer. Dennis advised when Mr. Holtzmann received the agreement for dusk-to-dawn lighting, Mr. Holtzmann told Dennis it was too expensive. Dennis worked with Mr. Holtzmann to come up with an agreement to switch him over to a metered service. The trustees stated they wanted issues like this one brought up in committee meetings. Ray stated this has been a normal practice and did not question this project from the beginning.

C. GENERAL CONCERNS: None.

D. PUBLIC PARTICIPATION: With regard to the Holtzmann issue, Janet said we should go ahead and charge the original amounts.

E. ADJOURN: *Trustee Charlie Mattern motioned to adjourn the meeting at 9:10 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson
Office Manager



RECEIVED
SEP 12 2008

WEILMUENSTER & WIGGINTON, P.C.

ATTORNEYS AT LAW

wwlaw1.com

J. BRIAN MANION*
E-Mail: jbm@wwlaw1.com

*Licensed in Illinois & Missouri

September 10, 2008

Mr. Dennis Herzing
Village Administrator
Village of Freeburg
Freeburg Municipal Center
14 Southgate Center
Freeburg, IL 62243

Re: Village of Freeburg v. C and S, Ltd., a Limited Partnership, Phil Sheets, et al.
Case No: 07-MR-93 (409 West Washington, Freeburg, Illinois)
Case No: 07-MR-94 (2 South Monroe, Freeburg, Illinois)

Dear Dennis:

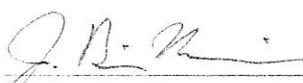
Enclosed please find copies of Notices of Appeal which have been filed by Bernard Ysursa in the above matter. As we have discussed many times, the process of preparing an appeal will be costly and there is certainly no guarantees about whether the Appellate Court will uphold all or a portion of the attorney's fees granted by the St. Clair County Circuit Court. Obviously, if the Village has any intention of attempting to settle this matter prior to a ruling on the merits of the appeal by the Appellate Court, it would be best to explore settlement now, before both parties invest a substantial amount of time and money into preparing the appeal.

Please advise whether you wish for us to defend the appeal or if you wish to grant us some settlement authority to attempt to resolve the case at this time.

I look forward to hearing from you.

Sincerely,

WEILMUENSTER & WIGGINTON

By: 

J. Brian Manion

JBM:kh

Enclosures

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

FROM

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

VILLAGE OF FREEBURG, A
Municipal Corporation,

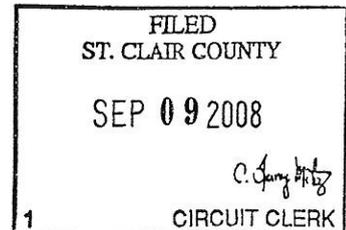
Plaintiff-Appellee,

vs.

C and S, Ltd., a Limited Partnership,
PHIL SHEETS and SHEETS
ENTERPRISES, LTD., a Limited
Partnership, Successor in Interest of
C & S, Ltd., a Limited Partnership,

Defendant-Appellant.

No. 07-MR-93



NOTICE OF APPEAL

Now comes the defendant-appellant in the above entitled cause and hereby appeals to the Appellate Court of Illinois, Fifth District, from the Order entered on August 11, 2008, affirming the Court's prior Order assessing fees, and further the portion of the Order which assesses further attorney's fees and costs against the defendant-appellant, and further asks this Court to reverse said ruling and determine that no fees and costs are allowable.



BERNARD J. YSURSA
COOK, YSURSA, BARTHOLOMEW
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street
Belleville, IL 62220
(618) 235-3500
(618) 235-7286 (fax)
bjy@cooklawoffice.com
#03095754

Daniel Mannion
Attorney at Law
426 Lexbridge
St. Louis, MO 63011

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

FROM

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

VILLAGE OF FREEBURG, A
Municipal Corporation,

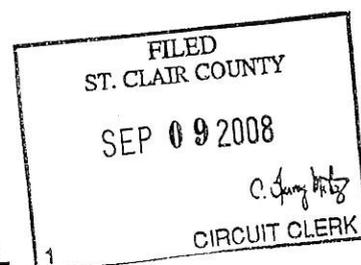
Plaintiff-Appellee,

vs.

C and S, Ltd., a Limited Partnership,
PHIL SHEETS and SHEETS
ENTERPRISES, LTD., a Limited
Partnership, Successor in Interest of
C & S, Ltd., a Limited Partnership,

Defendant-Appellant.

No. 07-MR-93



NOTICE OF FILING OF NOTICE OF APPEAL

T0: Village of Freeburg

AND: Stephen Wigginton, Its Attorney

PLEASE TAKE NOTICE that a Notice of Appeal from the Order entered in the above cause on August 11, 2008, affirming the Court's prior Order assessing fees, and further the portion of the Order which assesses further attorney's fees and costs against the defendant-appellant, and further asks this Court to reverse said ruling and determine that no fees are allowable was filed in the Office of the Clerk of the Circuit Court of the Twentieth Judicial Circuit, St. Clair County, Illinois, on or about September 9, 2008, and a copy of said Notice is hereby served upon you.

Dated this 9th day of September, 2008,

BERNARD J. YSURSA
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FIFTH DISTRICT

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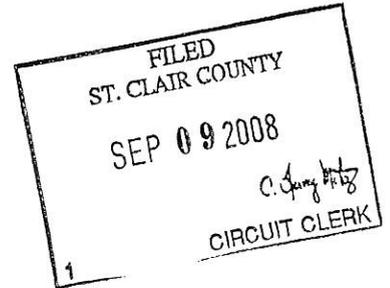
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C & S, Ltd., a Limited Partnership,

Defendant-Appellant.

No. 07-MR-93



Certificate of Service

The undersigned hereby certifies that a true and correct copy of the Notice of Appeal and Notice of Filing Notice of Appeal was forwarded by first class mail, postage prepaid, in an envelope addressed to the following individuals on September 9, 2008:

Stephen R. Wigginton
Weilmuenster & Wigginton, P.C.
3201 West Main Street
Belleville, IL 62226

A handwritten signature in black ink, appearing to be "S. R. Wigginton", written over a horizontal line.

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

FROM

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

VILLAGE OF FREEBURG, A
Municipal Corporation,

Plaintiff-Appellee,

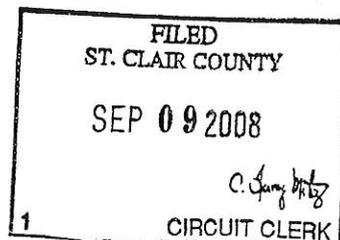
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C & S, Ltd., a Limited Partnership,

Defendant-Appellant.

No. 07-MR-94

NOTICE OF APPEAL



Now comes the defendant-appellant in the above entitled cause and hereby appeals to the Appellate Court of Illinois, Fifth District, from the Order entered on August 11, 2008, affirming the Court's prior Order assessing fees, and further the portion of the Order which assesses further attorney's fees and costs against the defendant-appellant, and further asks this Court to reverse said ruling and determine that no fees and costs are allowable.

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
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FROM

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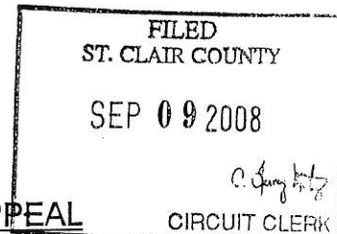
Plaintiff-Appellee,

vs.

C and S, Ltd., a Limited Partnership,
PHIL SHEETS and SHEETS
ENTERPRISES, LTD., a Limited
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C & S, Ltd., a Limited Partnership,

Defendant-Appellant.

No. 07-MR-94



NOTICE OF FILING OF NOTICE OF APPEAL

T0: Village of Freeburg

AND: Stephen Wigginton, Its Attorney

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Dated this 9th day of September, 2008,

BERNARD J. YURSA
COOK, YURSA, BARTHOLOMEW
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

FROM

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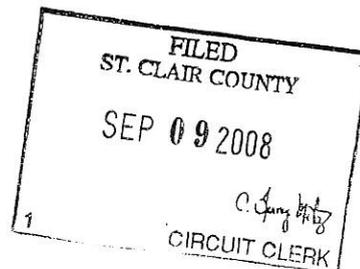
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MEMO:

To: Legal & Ordinance Committee

From: Dennis R. Herzing, P.E., Village Administrator

CC: Mayor Danford

Date: 09/30/2008

Re: Enforcement of Ordinance concerning lot grades

The question has been raised as to whether we can enforce violations of the ordinance concerning lot grades by imposing a special assessment under the nuisance ordinance. That does not appear to be a viable approach. We passed Ordinance NO. 1275 providing for the special assessments based on the authority found at 65ILCS 5/9-2-4.5. Ordinance 1275 and the related statute are limited to weeds, trash, inoperable motor vehicles and other items covered in Chapter 94 - Nuisances . See attached.

ORDINANCE NO. 1275

AN ORDINANCE ENACTING SECTION 94.09 OF THE CODE OF ORDINANCES OF THE VILLAGE OF FREEBURG, COUNTY OF ST. CLAIR, STATE OF ILLINOIS TO PROVIDE FOR A SPECIAL ASSESSMENT FOR CERTAIN ORDINANCE VIOLATIONS

WHEREAS, the corporate authorities of the Village of Freeburg, Illinois, (the "Village") believe it is in the best interest of the citizens of Freeburg to enable the Village to abate certain nuisances and recover the costs of abatement by way of a special assessment against the nuisance property;

WHEREAS, the Village is authorized to enact an ordinance providing for a special assessment by the Illinois Municipal Code, 65 ILCS 5/9-2-4.5;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF FREEBURG, ST. CLAIR COUNTY, ILLINOIS, as follows:

Section 1. The recitals set forth above are true and correct and are hereby incorporated herein.

Section 2. Chapter 94, Section 94.09, is enacted as follows:

§ 94.09 SPECIAL ASSESSMENT.

In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under Chapter 94, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) non-compliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement, (iii) costs for services rendered by the village to correct the Code violation remain unpaid, and (iv) a lien has been filed of record by the village in the office of the recorder, then those costs may be collected as a special assessment on the property pursuant to 65 ILCS 5/9-2-4.5. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the village and the release shall be filed of record in the same manner as the filing of the notice of lien.

Section 3. This Ordinance shall be effective upon its passage, execution by the Mayor and Village Clerk and publication as required by law.

PASSED THIS 17th DAY OF DECEMBER, 2007, BY THE VILLAGE PRESIDENT AND THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF FREEBURG, ST. CLAIR COUNTY, ILLINOIS, AND DEPOSITIED AND FILED IN THE OFFICE OF THE VILLAGE CLERK IN SAID VILLAGE ON THAT DATE.

(65 ILCS 5/9-2-4.5)

Sec. 9-2-4.5. Special assessment for payment of costs associated with certain ordinance violations.

(a) For purposes of this Section, "Code" means any municipal ordinance that requires, after notice, the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, and rodent and vermin abatement.



(b) In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation, (ii) non-compliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement, (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Division 31.1 of Article 11 of the Illinois Municipal Code, and (iv) a lien has been filed of record by the municipality in the office of the recorder in the county in which the property is located, then those costs may be collected as a special assessment on the property under this Division. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

(Source: P.A. 93-993, eff. 1-1-05.)

RESOLUTION NO. ____

A RESOLUTION ADOPTING AN IDENTITY THEFT PREVENTION POLICY

WHEREAS, The Fair and Accurate Credit Transactions Act of 2003, an amendment to the Fair Credit Reporting Act, required rules regarding identity theft protection to be promulgated; and

WHEREAS, Those rules become effective November 1, 2008, and require municipal utilities and other departments to implement an identity theft prevention program and policy, and

WHEREAS, The Village of Freeburg has determined that the following policy is in the best interest of the municipality and its citizens. NOW, THEREFORE,

BE IT RESOLVED by the Village of Freeburg, County of St. Clair, State of Illinois that the following policy is hereby adopted and approved:

SENSITIVE INFORMATION POLICY

BACKGROUND

The risk to the municipality, its employees and customers from data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor.

PURPOSE

The Village of Freeburg adopts this sensitive information policy to help protect employees, customers, contractors and the municipality from damages related to the loss or misuse of sensitive information.

This policy will:

1. Define sensitive information;
2. Describe the physical security of data when it is printed on paper;
3. Describe the electronic security of data when stored and distributed; and
4. Place the municipality in compliance with state and federal law regarding identity theft protection.

This policy enables the municipality to protect existing customers, reducing risk from identity fraud, and minimize potential damage to the municipality from fraudulent new accounts. The program will help the municipality:

1. Identify risks that signify potentially fraudulent activity within new or existing covered accounts;
2. Detect risks when they occur in covered accounts;
3. Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed; and
4. Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program.

SCOPE

This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers at the municipality, including all personnel affiliated with third parties.

Definition of Sensitive Information

Sensitive information includes the following items whether stored in electronic or printed format:

Credit card information, including any of the following:

1. Credit card number (in part or whole)
2. Credit card expiration date
3. Cardholder name
4. Cardholder address

Tax identification numbers, including:

1. Social Security number
2. Business identification number
3. Employer identification numbers

Payroll information, including, among other information:

1. Paychecks
2. Pay stubs

Medical information for any employee or customer, including but not limited to:

1. Doctor names and claims
2. Insurance claims
3. Prescriptions
4. Any related personal medical information

Other personal information belonging to any customer, employee or contractor, examples of which include:

1. Date of birth
2. Address
3. Phone numbers
4. Maiden name
5. Names
6. Customer number

Municipal personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. If an employee is uncertain of the sensitivity of a particular piece of information, he/she should contact their supervisor.

Hard Copy Distribution

Each employee and contractor performing work for the municipality will comply with the following policies:

1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
2. Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
3. Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.
4. Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed, or shredded when not in use.
5. When documents containing sensitive information are discarded they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut shredding device.

Electronic Distribution

Each employee and contractor performing work for the municipality will comply with the following policies:

1. Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.
2. Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

“This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited.”

IDENTITY THEFT PREVENTION PROGRAM

This Identity Theft Prevention Program is hereby adopted pursuant to and in compliance with the Identity Theft Rules of the Federal Trade Commission (FTC), Part 681 of Title 16 of the Code of Federal Regulations (16CFRPart681).

PURPOSE

The purpose of this Identity Theft Prevention Program (Program) is to protect customers of the Village of Freeburg’s utility services from identity theft. The Program is intended to establish reasonable policies and procedures to facilitate the detection, prevention and mitigation of identity theft in connection with the opening of new Covered Accounts and activity on existing Covered Accounts.

SCOPE

This Program applies to the creation, modification and access to Identifying Information of a customer of one or more of the utilities operated by the Village of Freeburg (electric, water and waste water) by any and all personnel of the Village of Freeburg, including management personnel. This Program does not replace or repeal any previously existing policies or programs addressing some or all of the activities that are the subject of this Program, but rather it is intended to supplement any such existing policies and programs.

DEFINITIONS

When used in this Program, the following terms have the meanings set forth opposite their name, unless the context clearly requires that the term be given a different meaning.

Covered Account: The term “covered account” means an account that the Village of Freeburg offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments of transactions, (16 CFR 681.2(b)(3)(i)). A utility account is a “covered account.” The term “covered account” also includes other accounts offered or maintained by the Village of Freeburg for which there is a reasonably foreseeable risk to customers the Village of Freeburg or its customers from identity theft. (16 CFR 681.2(b)(3)(ii)).

Identity Theft: The term “identity theft” means a fraud committed or attempted using the identifying information of another person without authority. (16 CFR §681.2(b)(8) and 16 CFR §603.2(a)).

Identifying Information: The term “identifying information” means any name or number that can be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number. Additional examples of “identifying information” are set forth in 16 CFR §603.2(a).

IT: The term “IT” means Information Technology.

Red Flag: The term “Red Flag” means a pattern, practice or specific activity that indicates the possible existence of identity theft.

Certain terms used but not otherwise defined herein shall have the meanings given to them in the FTC’s Identity Theft Rules (16 CFR Part 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §1681 *et seq.*), as amended by the Fair and Accurate Credit Transaction Act of 2003 into law on December 4, 2003. (Public Law 108-159).

The Village of Freeburg has considered the guidelines and the illustrative examples of possible Red Flags from the FTC’s Identity Theft Rules and has reviewed the Village of Freeburg’s past history with instances of identity theft, if any. The Village of Freeburg hereby determines that the following are the relevant Red Flags for purposes of this Program given the relative size of the Village of Freeburg and the limited nature and scope of the services that the Village of Freeburg provides to its citizens:

- A. The presentation of suspicious documents.
 1. Documents provided for identification appear to have been altered or forged.
 2. The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
 3. Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
 4. Other information on the identification is not consistent with readily accessible information that is on file with the Village of Freeburg, such as a signature card or a recent check.
 5. An application appears to have been altered or forged or gives the appearance of having been destroyed and reassembled.
 6. The presentation of suspicious personal identifying information, such as a suspicious address change.
 7. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
 8. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third party sources used by the Village of Freeburg. For example:
 - a) The address on an application is the same as the address provided on a fraudulent application; or
 - b) The phone number on an application is the same as the number provided on a fraudulent application.
 9. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third party sources used by the Village of Freeburg. For example:
 - a) The billing address on an application is fictitious, a mail drop or a prison; or

- b) The phone number is invalid, or is associated with a pager or answering service.
10. The SSN provided is the same as that submitted by other persons opening an account or other customers.
 11. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
 12. The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
 13. Personal identifying information provided is not consistent with personal identifying information that is on file with the Village of Freeburg.
 14. If the Village of Freeburg uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
 15. The unusual use of, or other suspicious activity related to a Covered Account.
 16. Shortly following the notice of a change of address for a covered account, the Village of Freeburg receives a request for the addition of authorized users on the account.
 17. A new utility account is used in a manner commonly associated with known patterns of fraud. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.
 18. A covered account with a stable history shows irregularities.
 19. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 20. Mail sent to the customer is returned repeatedly as undeliverable although usage of utility products or services continues in connection with the customer's covered account.
 21. The Village of Freeburg is notified that the customer is not receiving paper account statements.
 22. The Village of Freeburg is notified of unauthorized usage of utility products or services in connection with a customer's covered account.
 23. Notice of Possible Identity Theft.
 24. The Village of Freeburg is notified by a customer, a victim of identity theft, a law enforcement authority or any other person that is has opened a fraudulent account for a person engaged in identity theft.

The employees of the Municipality that interact directly with customers on a day-to-day basis shall have the initial responsibility for monitoring the information and documentation provided by the customer and any third-party service provider in connection with the opening of new accounts and the modification of or access to existing accounts and the detection of any Red Flags that might arise. Management shall see to it that all employees who might be called upon to assist a customer with the opening of a new account or with modifying or otherwise accessing an existing account are properly trained such that they have a working familiarity with the relevant Red Flags identified in this Program so as to be able to recognize any Red Flags that might surface in connection with the transaction. An Employee who is not sufficiently trained to recognize the Red Flags identified in this Program shall not open a new account for any customer, modify any existing account or otherwise provide any customer with access to information in an existing account without the direct supervision and specific approval of a management employee. Management employees shall be properly trained such that they can recognize the relevant Red Flags identified in this Program and exercise sound judgment in connection with the response to any unresolved Red Flags that may present themselves in connection with the opening of a

new account or with modifying or access of an existing account. Management employees shall be responsible for making the final decision on any such unresolved Red Flags.

The Program Administrator shall establish from time to time a written policy setting forth the manner in which a prospective new customer may apply for service, the information and documentation to be provided by the prospective customer in connection with an application for a new utility service account, the steps to be taken by the employee assisting the customer with the application in verifying the customer's identity and the manner in which the information and documentation provided by the customer and any third-party service provider shall be maintained. Such policy shall be generally consistent with the spirit of the Customer Identification Program rules (31 CFR 103.121) implementing Section 326(a) of the USA PATRIOT Act but need not be as detailed. The Program Administrator may maintain a relationship with a credit reporting agency (CRA) to perform Identity Verification services. The Program Administrator shall establish from time to time a written policy setting forth the manner in which customers with existing accounts shall establish their identity before being allowed to make modifications to or otherwise gain access to existing accounts.

If the responsible employees of the Village of Freeburg as set forth in the previous sections are unable, after making a good faith effort, to form a reasonable belief that they know the true identity of a customer attempting to open a new account or modify or otherwise access an existing account based on the information and documentation provided by the customer and any third-party service provider, the Village of Freeburg shall not open the new account or modify or otherwise provide access to the existing account as the case may be. Discrimination in respect to the opening of new accounts or the modification or access to existing accounts will not be tolerated by employees of the Village of Freeburg and shall be grounds for immediate dismissal.

The Program Administrator shall establish from time to time a written policy setting forth the steps to be taken in the event of an unresolved Red Flag situation. Consideration should be given to aggravating factors that may heighten the risk of Identity Theft, such as a data security incident that results in authorized access to a customer's account, or a notice that a customer has provided account information to a fraudulent individual or website. Appropriate responses to prevent or mitigate Identity Theft when a Red Flag is detected include:

1. Monitoring a Covered Account for evidence of Identity Theft;
2. Contacting the customer
3. Changing any passwords, security codes or other security devices that permit access to a Covered Account;
4. Reopening a Covered Account with a new account number
5. Not opening a new Covered Account;
6. Closing an existing Covered Account
7. Not attempting to collect on a Covered Account or not selling a Covered Account to a debt collector;
8. Notifying law enforcement;
9. Determining that no response is warranted under the particular circumstances.

Utility accounts for personal, family and household purposes are specifically included within the definition of "covered account" in the FTC's Identity Theft Rules. Therefore, the Village of Freeburg determines that with respect to its residential utility accounts it offers and/or maintains covered accounts. The Village of Freeburg also performed an initial risk assessment to determine whether the utility offers or maintains any other accounts for which there are reasonably foreseeable risks to customers or the utility from identity theft. In making this determination the Village of Freeburg considered (1) the methods it uses to open its accounts, (2) the methods it uses to access its accounts, and (3) its previous

experience with identity theft and it concluded that it does not offer or maintain any such other covered accounts.

This Resolution shall be in full force and effect after its passage and approval as provided by law.

ADOPTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF FREEBURG, ILLINOIS, THIS ____ DAY OF OCTOBER, 2008.

Vote Recorded:

AYES: _____

NAYS: _____

ABSENT: _____

Jerry Menard, Village Clerk

Raymond Danford, Village President

ATTEST:

Jerry Menard, Village Clerk

Approval as to Legal Form: _____
Stephen R. Wigginton, Village Attorney