

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

January 5, 2009

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, January 7, 2009, at 5:30 p.m.**

LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items To Be Discussed

A. Old Business

1. Approval of December 3, 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. Drainage easement grades
7. Bill's Autobody
8. Identity Theft Program
9. Dusk to Dawn Lighting

B. New Business

1. Village of Freeburg v. Angela Ham
2. Tom Watts v. Village of Freeburg

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, January 7, 2009 at 5:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:43 p.m. by Chairman Kevin Groth on Wednesday, January 7, 2009, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Mayor Ray Danford, Village Administrator Dennis Herzing and Zoning Administrator Phil Borger.

A. OLD BUSINESS:

1. Approval of December 3, 2008 Minutes: *Trustee Rita Baker motioned to approve the December 3, 2008 minutes and Trustee Charlie Mattern seconded the motion.* All voting aye, motion carried.

2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code: Minutes from the last meeting were passed around. Kevin said one thing pretty well agreed on is that we want our community to look nice but the opinions differs on ways to do that. He asked the committee to take the minutes home and read through them.

3. Status of Public Hazard Homes: Dennis said Sheets is basically trying to make a case that when SAVE was annexed, there was language in that agreement that they didn't have to bring their buildings up to code and Sheets feels that somehow affects his case with the Comptom home. He is also trying to use the fact that this house falls into the protected corridor with the Gateway Protector. Dennis said the statute excludes normal maintenance and repairs. Sheets would need IDOT's approval to remodel or remove the home. In order to take the case further, we would need to have a structural engineer look at the building at an approximate cost of \$2,000. There is an open, abandoned well that is not safe and is illegal under EPA rules. Dennis would like to tell Sheets' attorney we won't hook utilities up to the house in its current condition and that the wells need to be sealed up. Dennis will review with Steve Wigginton and get his opinion on what he thinks we should do. Work has started at 409 W. Washington.

4. TIF litigation: There is no new information.

5. Stumpf lawnmower repair: Dennis advised the case is still scheduled for trial on January 20th. He asked Brian what happens since Stumpf's attorney withdrew his representation. Brian advised Stumpf could show up and represent himself or he could not show up and the judge would most likely say he's guilty. Dennis said when Ken Stumpf came in with his attorney, they asked what Ken could do to

Legal and Ordinance Committee Meeting
Wednesday, January 7, 2009

Page 1 of 2

continue his hobby without upsetting the neighbors. Dennis advised them to put together detailed requests of what they wanted. We have never heard back from them. The committee agreed they don't really want to fine him other than to recoup the attorney fees and also don't want him to run a business out of his home. Kevin reminded the committee that in 2006 we changed our definition of a business taking out the part that said "for financial gain," further saying what matters is the intent to make a profit. By our definition, he is running a business.

6. Drainage easement grades: Dennis talked to Kaufman at EPA who thinks Columbia has some stiff ordinances regarding this. Dennis did not find anything online to support this.

7. Bill's Autobody: Dennis advised Brian thinks we have enough in our code to pursue it if we want to. Kevin would like to review Brian's letter more in depth.

8. Identity Theft Program: Dennis put this into ordinance form.

Trustee Rita Baker motioned to recommend to the full Board the Ordinance Adopting an Identity Theft Prevention Policy and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

9. Dusk to Dawn Lighting: Kevin asked Charlie about his comment of 300 feet, and Charlie advised it was just a way to try and limit our risk/exposure. Kevin would like to discuss this more at next month's meeting.

B. NEW BUSINESS:

1. Village of Freeburg v. Angela Ham: The case is over but was provided to the committee for their information. This was an ordinance violation for barking dogs. She agreed to the \$100 fine.

2. Tom Watts v. Village of Freeburg: This is a copy of his suit that was provided to the committee so they knew we were served. We don't have anything new to report.

C. GENERAL CONCERNS: Kevin received a letter from F.X. on updating our code. He also sent a contract with what his services would include. The cost would be \$13.50 per page. Kevin asked Dennis to have Julie figure out about how much it would cost to update the code.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn the meeting at 6:23 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, December 3, 2008 at 5:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:32 p.m. by Chairman Kevin Groth on Wednesday, December 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, Zoning Administrator Phil Borger and Office Manager Julie Polson.

A. OLD BUSINESS:

1. Approval of November 5, 2008 Minutes: *Trustee Rita Baker motioned to approve the November 5, 2008 minutes and Trustee Kevin Groth seconded the motion.* All voting aye, motion carried.
2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code: Kevin asked for the minutes to be included in the next meeting packet.
3. Status of Public Hazard Homes: Dennis advised he talked to Steve Wigginton who needs to get the status of the Compton house from Attorney Manion.
4. TIF litigation: This will be discussed at the Committee as a Whole meeting tonight.
5. Stumpf lawnmower repair: Dennis advised Mr. Stumpf's attorney has withdrawn from the case. It is set for a bench trial on January 20, 2009. The ticket was issued for operating a business in a residential district. Kevin asked for Phil to monitor the situation and have the police officers take pictures if he sees anymore lawnmowers sitting out.
6. Drainage easement grades: Dennis has not worked on this item.
7. Bill's Autobody: Dennis advised he has not heard from Brian Manion. He will call him again on this issue.
8. Identity Theft Program: Dennis is in the process of getting the resolution changed over to an ordinance and will have available at the next committee meeting.

Legal and Ordinance Committee Meeting
Wednesday, December 3, 2008
Page 1 of 2

B. NEW BUSINESS:

1. Tax Abatement Ordinance: Dennis advised this is the annual tax abatement ordinance that needs to be done and filed at the County by the last Tuesday in December.

Trustee Rita Baker motioned to recommend to the full Board the Tax Abatement Ordinance be approved and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

2. Dusk to Dawn Lighting: Kevin asked for this item to stay on the agenda and would be discussed in more detail at the next meeting. Julie will put a copy of the current ordinance in effect into everyone's mailbox and also the next committee packet. Kevin thought it might be a good idea to divide it between residential and commercial customers. Charlie had the idea of limiting the distance of the lights.

C. GENERAL CONCERNS: Ray talked about the first meeting of the Community Improvement Board. They discussed trying to address specific issues such as building materials for businesses, nuisance abatement and how far to go with that including inspections. They wanted to check our current nuisance code to see if we just need to enforce what we have a little more aggressively or expand the code. Kevin asked how our user friendly our code book is----are they centrally located or spread throughout the code book. Dennis said it depends on where the committee goes with it. If we decide we truly want a property maintenance code, we would need a new section in the code book. If we want to make some minor changes to the nuisance code, changes on building materials, we could make those changes. Ray said with the discussion we had, it would cover the entire code book. Dennis said the committee is looking at buildings that are in between a brand new building and ones that are ready to tear down.

Kevin advised the Comptom house porch was taken down, it looks like they've tried to clean it up. Dennis and Phil will take a look at it and advise the attorneys if they need to.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn the meeting at 5:50 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson
Office Manager

ORDINANCE NO. _____

AN ORDINANCE 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. THEREFORE,

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF FREEBURG, ST. CLAIR COUNTY, ILLINOIS, THAT: THE FOLLOWING POLICY IS HEREBY ADOPTED AND APPROVED:

IDENTITY THEFT 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.

SENSITIVE INFORMATION POLICY

A. 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.

PASSED BY THE VILLAGE BOARD OF THE VILLAGE OF FREEBURG, ILLINOIS, ST. CLAIR COUNTY, AND APPROVED BY THE VILLAGE PRESIDENT THIS _____ DAY OF _____, 2009.

AYES _____

NAYS _____

ABSENT _____

ABSTAIN _____

Jerry Menard, Village Clerk

Approved this _____ day of _____, 2009

Raymond S. Danford, Village President

ATTEST:

Jerry Menard, Village Clerk

Approval as to Legal Form:

Stephen R. Wigginton, Village Attorney

Freeburg Village Code

§ 51.27 or a total permanent mobile home park as described in division (B) of this section. A mobile home park is permanent when the following improvements have been installed:

- (1) Village water supply;
- (2) Sewers connected to sewer mains; and
- (3) Paved streets.

(Former Code § 38-5-3(O))

51.31 **MOTORS AND APPARATUS.** Motors and apparatus shall be as follows:

(A) The Department reserves the right to select the type of service to be supplied and shall be consulted before equipment is purchased or ordered by a customer. This shall be applicable to those customers having motors five HP and larger or where the aggregate load of smaller motors is more than seven and one-half HP.

(B) All three-phase electric service shall be by demand metering.

(C) Motors and motorized equipment will generally be approved for use on the electric system only if the total locked motor current does not exceed an acceptable level, as determined by the Public Works Director.

(D) If starting currents are objectionable and will cause interference on the electric system, in the judgment of the Public Works Director, reduced voltage starting or such other methods as the Public Works Director determines feasible will be required to be furnished by the customer.

(Former Code, § 38-5-6)

51.32 **DUSK-TO-DAWN LIGHTS.** Rented dusk-to-dawn lights shall be provided as follows:

(A) Private lighting luminaries (dusk-to-dawn lighting services) for homes, schools, security, churches, commercial areas, and industry shall be provided where feasible and in keeping with good electrical practice, as per the following specifications:

- (1) (a) A self-contained automatic dusk-to-dawn 100-watt, 175-watt, 400-watt and 1,000-watt mercury vapor lighting fixture shall be furnished and installed by the Village Electric Department, such fixture to meet standards and specifications of the village, on existing wood pole structures for the customer's use at a monthly charge rate of \$6 per unit for a 100-watt unit, \$12 for a 400-watt unit, and \$30 for a 1,000-watt unit for a minimum two-year period. The charges per month shall be added to the customer's monthly utility bill and shall become an integral part of the bill.

- (b) The Electric Department shall be responsible for making the installation, furnishing the electricity for the operation of the lamp, provide all the necessary maintenance (including the replacement of lamps, but excluding malicious damage) for the two year period and all subsequent time additions to the length of service, as agreed to by the village.
- (Ord. 715, passed 4-20-87; Am. Ord. 998, passed 5-21-01)
- (2) Should the installation of a standard lighting unit require installation by the Electrical Department of additional facilities not required by the village for distribution purposes other than the private outdoor lighting to be installed, the Electrical Department shall furnish, install, own, and maintain the additional facilities (including wood poles), which may be necessary to provide such lighting from nearby distribution lines. The Electrical Department shall make a net monthly charge, in addition to the charge set forth of 1¼% of the additional cost to the Electrical Department of furnishing and installing such additional facilities.
- (3) A two year minimum contract shall be agreed to and signed by each customer desiring dusk-to-dawn lighting service, authorizing fixed monthly charges to be applied to the monthly municipal utilities bills. In the event that a customer desires the removal of the unit or discontinuance of the service, the remainder of the charges to complete a two year contract shall become due and payable by the customer.
- (4) Dusk-to-dawn lighting shall be installed on wood poles with a normal ground-to-lamp height of approximately 25 feet. Should a customer desire his or her lighting on steel, aluminum, concrete, decorative type pales and/or underground cable installation, the Village Electric Department may, at its discretion, install or cause the special service to be installed. The customer shall bear the total cost that is above that of a normal wood pole installation, and the additional charge shall be payable by the customer prior to installation.
- (5) The customer shall have the responsibility to notify the Village Electric Department of any interruption of service of the dusk-to-dawn lighting service. The Electric Department will restore service only during regularly scheduled working hours and shall, in any event, be under no obligation to do so before 72 hours from the time of notification. In the event the Electric Department is unable

Freeburg Village Code

to effect repairs not caused by the customer within this period, the Electric Department's only responsibility will be to abate the charges on a pro-rata basis for each day after 72 hours in which service is not available. The customer shall remove any obstruction to the installation of the village-owned facilities. Trimming of trees to improve the distribution of light shall be the customer's responsibility. The customer shall provide any permits or easements required for the installation or maintenance of the village-owned facilities and permit access to such facilities by the Electric Department vehicles and personnel. A lighting agreement shall be substantially in the form set forth in Appendix A.

(Former Code, § 38-5-7)

- (6) Dusk to Dawn lighting does not constitute nor fall within the parameters of Section 31.45(G) and is hereby exempt (as a rental service) from the provisions of the Section above referenced.

51.33 **CONSTRUCTION OF SERVICES.** All construction of services shall, in general, be in accordance with the drawings set forth in Appendix B, unless otherwise approved by the Public Works Director. (Former Code, § 38-5-8)

RATES AND FEES; BILLING

51.45 **ELECTRICAL RATES.** The following classification of electric service at the rates and on the qualifications, conditions and terms as respectively set forth are hereby established for the sale of electric energy by the Municipal Light Plant and Distribution System of the Village to customers adjacent to the distribution lines of the plant and system.

(A) **Single Phase Service (Rate 1).** Available for any residence, individual apartment, business or any other consumer located adjacent to the municipalities service lines, who utilizes single phase, 120/140 volt service, which shall not be available for resale.

- (1) The charge per month per meter installation shall be:
Facilities Charge - \$5.49 per monthly billing period per meter installation (Note: One customer to pay this charge once only in one billing month in event of change of location or meter change).
 Plus
Energy Charge – (plus Fuel Adjustment Charges to be added).



WEILMUNSTER & WIGGINTON, P.C.

ATTORNEYS AT LAW
wwlaw1.com

RECEIVED

DEC 19 2008

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

*Licensed in Illinois & Missouri

December 16, 2008

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

Re: Village of Freeburg v. Angela Ham
Case No(s): 08-OV-4249, 08-OV-4534 and 08-OV-4535

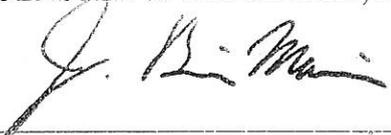
Dear Dennis:

Enclosed please find a copy of the Orders entered by the Court this date with regard to the above-referenced matters.

If you have any questions, please do not hesitate to contact me.

Sincerely,

WEILMUNSTER & WIGGINTON, P.C.

By: 

J. Brian Manion

JBM:kh
Enclosures

State of Illinois

IN THE TWENTIETH JUDICIAL CIRCUIT, ST. CLAIR COUNTY, BELLEVILLE, ILLINOIS

Village of Freeburg

PEOPLE OF THE STATE

vs.

Angela Harm

Defendant

No. *08-CV-4749*

FILED
ST. CLAIR COUNTY
DEC 16 2008
<i>Brenda F. Keller</i>
CIRCUIT CLERK

ORDER

This cause coming before the Court; the Court being fully advised in the premises and having jurisdiction of the subject matter;

The Court finds:

IT IS THEREFORE ORDERED:

Defendant pleads guilty to violation of Freeburg ordinance for keeping of barking dog. Defendant is fined \$100.00 and given 60 days to pay. 60 day supervision.

J. R. Min. Freeburg

Angela Harm

[Signature]

Judge

cool

State of Illinois

IN THE TWENTIETH JUDICIAL CIRCUIT, ST. CLAIR COUNTY, BELLEVILLE, ILLINOIS

Village of Freeburg

PEOPLE OF THE STATE

vs.

Angela Ham

Defendant

No. 08-OV-4534



ORDER

This cause coming before the Court; the Court being fully advised in the premises and having jurisdiction of the subject matter;

The Court finds:

IT IS THEREFORE ORDERED:

Defendant pleads guilty to violation of Freeburg ordinance for dog running at large. Defendant is fined \$100.00. Defendant is given 60 days to pay the fine. 60 days supervision.

J.P. Moran Freeburg

Angela Ham

[Handwritten signature]

Judge

cod

State of Illinois

IN THE TWENTIETH JUDICIAL CIRCUIT, ST. CLAIR COUNTY, BELLEVILLE, ILLINOIS

Village of Freeburg

PEOPLE OF THE STATE

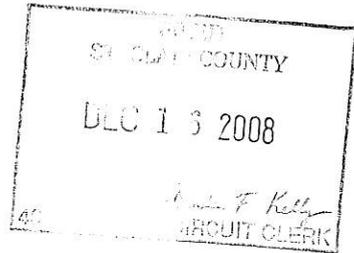
vs.

Angela Ham

Defendant

No.

08-OV-4535



ORDER

This cause coming before the Court; the Court being fully advised in the premises and having jurisdiction of the subject matter;

The Court finds:

IT IS THEREFORE ORDERED:

On Village's Motion, this charge is Nolle Prosequit.

J. M. ... Freeburg

Angela Ham Defendant

[Signature]

Judge

[Signature]

UNITED STATES DISTRICT COURT

Southern

District of Illinois

Thomas Watts

SUMMONS IN A CIVIL CASE

V.

Village of Freeburg, Illinois

CASE NUMBER: 08-862-DRH

RECEIVED

DEC 18 2008

4:00 p.m.

TO: (Name and address of Defendant)

Mayor, Ray Danford
Village of Freeburg, Illinois
14 Southgate Center
Freeburg, IL 62243

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Thomas E. Kennedy, III
Law Offices of Thomas E. Kennedy, III L.C.
230 S. Bemiston Ave., St. 800
St. Louis, MO 63105
314-872-9041

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

NORBERT G. JAWORSKI

CLERK

Risa Sidwell

(By) DEPUTY CLERK

DATE

12/18/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

THOMAS WATTS,)

Plaintiff,)

vs.)

No. 08-862-DRH

VILLAGE OF FREEBURG, ILLINOIS,)
a Municipal Corporation;)

Defendant.)

COMPLAINT

Now comes the Plaintiff, by his attorneys, and for his Complaint states as follows:

1. This action is brought under the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, and the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, *et seq.*

JURISDICTION AND VENUE

2. This Court has original jurisdiction to hear this Complaint and adjudicate the claims stated herein under 28 U.S.C. §1331, this action being brought under the Federal Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, (“FLSA”). The Court also has discretion, pursuant to 28 U.S.C. §1367, to accept supplemental jurisdiction over “all claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy” This would include the jurisdiction of Plaintiff’s claims pursuant to the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, and the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, *et seq.* Personal jurisdiction of the Defendant for the Illinois claim is based in 735 ILCS 5/2- 209(b)(3) “a corporation organized under the laws of the state.”

3. Venue lies in the Southern District of Illinois in that Defendant resides in this District and a substantial part of the events or omissions giving rise to the claim occurred in this District.

PARTIES

4. Plaintiff, Thomas Watts, is a resident of St. Clair County, Illinois and worked as a K-9 police officer for the Village of Freeburg from January 28, 2004 until July 2007.

5. Defendant, Village of Freeburg, is a municipal corporation located in St. Clair County, State of Illinois, and has been so at all times relevant hereto. At all times pertinent hereto Defendant has been and is an “employer” within the meaning of the FLSA, 29 U.S.C. §203(d) and the meaning of the Illinois MWL, 820 ILCS §105/3(c) and 4a(l).

FACTUAL ALLEGATIONS RELEVANT TO ALL COUNTS

6. The Plaintiff, at all times pertinent to the cause of action, was “employed” by Defendant, as the term is defined under the FLSA and pertinent State regulations.

7. At all times relevant hereto, Plaintiff provided care for the K-9 dog without compensation from the Village of Freeburg. He fed, bathed, groomed, trained and generally cared for the K-9 dog on his own time.

8. Defendant has willfully employed Plaintiff for hours in excess of forty (40) in one work week, without pay for those hours over forty (40) at a rate of 1 and ½ times his regular hourly rate.

9. Plaintiff has requested payment of his overtime wages from the Defendant. The Defendant has refused to pay the earned overtime wages to Plaintiff.

COUNT I
VIOLATION OF FAIR LABOR STANDARDS ACT

10. Paragraphs 1 through 9 are re-alleged and incorporated as though set forth fully herein.

11. Pursuant to the Federal Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, Plaintiff is entitled to compensation at a rate of not less than 1 and ½ times his regular hourly rate of pay for all hours worked in excess of forty (40) hours in any week during the two (2) years preceding the filing of this action.

12. Defendant has at all times relevant hereto failed and refused to pay compensation to Plaintiff at the rate of 1 and ½ times his regular hourly rate for hours worked over forty (40) in a work week, as required by FLSA.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order as follows:

A. Award back pay equal to the amount of all unpaid overtime compensation for the two (2) years preceding the filing of this Complaint, according to the applicable statute of limitations;

B. Award prejudgment interest with respect to the total amount of unpaid overtime compensation;

C. Award Plaintiff's reasonable attorneys' fees and costs incurred as a result of Defendant's violation of the Fair Labor Standards Act; and

D. For such additional relief as the Court deems appropriate under the circumstances.

COUNT II
WILLFUL VIOLATION OF THE FAIR LABOR STANDARDS ACT

13. Paragraphs 1 through 12 are re-alleged and incorporated as though set forth fully herein.

14. Defendant has willfully failed to pay Plaintiff for work weeks in excess of forty (40) hours per week at a rate equal to 1 and ½ times his regular pay, despite the fact that Defendant knew, or should have known, of the requirements of the Fair Labor Standards Act.

15. Pursuant to the Fair Labor Standards Act, Plaintiff is entitled to compensation at a rate not less than 1 and ½ times his regular rate of pay for all hours worked in excess of forty (40) in any given week in the three (3) years preceding the filing of this action.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order as follows:

A. Award back pay equal to the amount of all unpaid overtime compensation for one (1) additional year, totaling three (3) years preceding the filing of this Complaint, according to the applicable statute of limitations;

B. Award prejudgment interest with respect to the total amount of unpaid overtime compensation;

C. Award Plaintiff's reasonable attorneys' fees and costs incurred as a result of Defendant's violation of the Fair Labor Standards Act; and

D. For such additional relief as the Court deems appropriate under the circumstances.

COUNT III
LIQUIDATED DAMAGES UNDER FLSA

16. Paragraphs 1 through 15 are re-alleged and incorporated as though set forth fully herein.

17. In denying Plaintiff compensation at a rate of 1 and ½ times his hourly rate for hours worked over forty (40) in a workweek, Defendant's acts were not based on good faith or reasonable grounds.

18. Plaintiff is entitled to liquidated damages equal to the amount of unpaid overtime compensation, pursuant to the Fair Labor Standards Act, 29 U.S.C. §260.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order as follows:

- A. Award liquidated damages equal to the amount of all unpaid overtime compensation;
- B. Award Plaintiff's reasonable attorneys' fees and costs incurred as a result of Defendant's violation of the Fair Labor Standards Act; and
- C. For such additional relief as the Court deems appropriate under the circumstances.

**COUNT IV
SUPPLEMENTAL STATE COURT CLAIM
VIOLATION OF THE ILLINOIS MINIMUM WAGE LAW**

19. Paragraphs 1 through 18 are re-alleged and incorporated as though set forth fully herein.

20. Throughout the relevant time periods at issue, the Illinois MWL, 820 ILCS 105/12(a), provided that an employer who fails to pay the required amount of wages due an employee under the act, shall be liable to the underpaid employee or employees for the unpaid wages and "for punitive damages in the amount of 2% of the amount of any such under payments for each month following the date of payment during which such under payments remain unpaid."

21. The Defendant's failure to pay the overtime wages as described has been willful.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order as follows:

- A. Award for damages including punitive damages;
- B. Award Plaintiff's reasonable attorneys' fees and costs incurred;
- C. Pre-judgment and Post-Judgment interest, as provided by law; and
- D. For such additional relief as the Court deems appropriate under the circumstances.

COUNT V
SUPPLEMENTAL STATE COURT CLAIM
VIOLATION OF THE ILLINOIS WAGE PAYMENT AND COLLECTION ACT

22. Paragraphs 1 through 21 are re-alleged and incorporated as though set forth fully herein.

22. The Illinois Wage Payment and Collection Act, 820 ILCS 115/2, defines wages as “any compensation owed to an employee by an employer pursuant to an employment contract or agreement between two parties....”

23. The Illinois Wage Payment and Collection Act, 820 ILCS 115/4, provides that every employer shall pay “all wages earned by an employee during a semi-monthly or biweekly pay period shall be paid to such employee not later than 13 days after the end of the pay period in which such wages were earned.”

24. The Illinois Wage Payment and Collection Act, 820 ILCS 115/5, provides that “every employer shall pay the final compensation of separated employees in full, at the time of separation, if possible, but in no case later than the next regularly scheduled payday for such employee.”

25. Defendant’s acts as complained herein and described above, namely the continuing refusal and failure to pay the earned overtime wages to Plaintiff, constitute a violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 *et seq.*

WHEREFORE, Plaintiff respectfully requests this Court to enter an order as follows:

- A. Award damages including punitive damages;
- B. Award Plaintiff’s reasonable attorneys’ fees and costs incurred;
- C. Pre-judgment and Post-Judgment interest, as provided by law; and
- D. For such additional relief as the Court deems appropriate under the circumstances.

Respectfully submitted,

By: /s/Thomas E. Kennedy, III
Thomas E. Kennedy, III
Law Offices of Thomas E. Kennedy, III, L.C.
230 S. Bemiston, Ste. 800
St. Louis, MO 63105
(314) 872-9041
Fax: (314) 872-9043
tkennedy@tkennedylaw.com