

VILLAGE PRESIDENT
Ray Danford

VILLAGE CLERK
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VILLAGE TRUSTEES
Rita Baker
Charlie Mattern
Kevin Groth
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VILLAGE OF FREEBURG

FREEBURG MUNICIPAL CENTER
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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

March 30, 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, April 1, 2009, at 6:30 p.m.**

LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items To Be Discussed

- A. Old Business
 - 1. Approval of March 4, 2009 Minutes
 - 2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code
 - 3. Status of Public Hazard Homes
 - 4. TIF Litigation
 - 5. Drainage easement grades
 - 6. Bill's Autobody
 - 7. Dusk to Dawn Lighting
 - 8. Updating our code
 - 9. Building code revision
 - 10. Unpaid utility bills
- B. New Business
 - 1. Bob and Georgia Huelsman
- 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, April 1, 2009 at 6:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 6:47 p.m. by Chairman Kevin Groth on Wednesday, April 1, 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, Public Works Director Ron Dintelmann and Office Manager Julie Polson. Guests present: Village Attorney Steve Wigginton, Bob Huelsman, Georgia Huelsman and Attorney Penny Livingston.

Trustee Rita Baker motioned to amend the agenda to move Public Participation to the beginning of the meeting and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

D. PUBLIC PARTICIPATION:

Attorney Livingston provided an overview of the Huelsmans' situation. They hired Hoelscher Engineering to go out and look at the situation. They indicated to them the cost of a full hydraulic study would be \$8,000 and also indicated a new culvert could be put in and would very likely solve the problem the Huelsmans are having. Hoelscher said it would cost about \$15,000 to replace and enlarge the culvert. She advised her clients not to spend the \$8,000 for the hydraulic study. She referenced our drainage ordinance stating the land developer has to control the drainage. She said it also addressed the facilities that handle the stormwater damage will prevent an increase in the rate of stormwater runoff onto adjoining property owners, no subdivision being approved unless there is an adequate drainage watercourse, complete hydraulic calculations. She said the developer did a first addition which only included the two lots but did not comply with any of the stormwater ordinances or drainage calculations, he didn't give the city anything that would show how the stormwater would work with the two lots. She said the preliminary plats showed lakes behind the lots but they were never developed. She said they might have been putting the lakes in to help divert the stormwater drainage.

She said they didn't come here today to tell the city they were suing them for \$40,000 worth of damage. She stated they are here because the Huelsmans have a flooding problem and the city should not be allowing development to flood homes. She said someone should have looked at the area to say should we even be approving a request to put in a home with a walkout basement. She said they are also concerned if future development comes in and forces more water into their area. She said they want the culvert replaced with a larger one more able to

Legal and Ordinance Committee Meeting
Wednesday, April 1, 2009
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handle the flow. Attorney Wigginton asked some general questions about the flow of the water and where the lake was supposed to be put in. Steve asked who the developer was on the first addition and Ms. Livingston advised it is in a land trust. An annexation agreement is in effect until June, 2009. Steve asked if she was able to find a drainage plan submitted with the plat and she said she can't find any. Steve asked if the code she referenced (154.23 and 154.28) was in effect at that time and she did not know. The Hueslmans' home was built in 1996 and their first episode was in 2000. She confirmed that and said the Huelsmans came to the Village in 2000. Steve said they were told it was the developer's fault. Dennis explained some calculations he did with respect to the flow at the existing culvert. The culvert is submerged on the upstream end and not flowing full on the downstream end which is classic for inlet control of the culvert. He said the Village has not been sure that installing a bigger pipe would solve the problem. He estimated on the head end of the culvert the water had to be at least 6 feet. Using 85 cfs (cubic feet per second) as the headwater benchmark and looked at the nomographs which show the different sized culverts. Taking a 60" culvert, the headwater depth drops from 6' to 4'; if you go a 72", it drops to 45"; if you go to 84", it drops to 42". He said he isn't sure you could go any larger than an 84" culvert because the road isn't that high. Dennis further explained when they had taken some shots out there, they established the top of that existing culvert at 100 to be used as a benchmark for relative depth and found out that the threshold at the entrance to their basement floor is about 4" above that. That being the case, anytime the pipe surcharges significantly, it will be right up to their home. Looking at the elevations he came up with in his rough analysis, the 48" culvert, the elevation would be 100'5" which is still 1" into their basement; 72" culvert would be 100'2" or 2 inches below their basement; 84" culvert is 99'11" or 5 inches below their basement. Georgia said they weren't thinking of a bigger culvert but of putting in another culvert beside it. Attorney Livingston said Hoelscher was thinking of a box culvert. Dennis said if you put in a 4' x 6' box culvert, the headwater elevation came to 99'3" or about 1' below the basement floor. Dennis' concern is that it won't completely alleviate the problem. Attorney Livingston asked for an appropriate solution and Attorney Wigginton said there are a lot of questions that need to be answered. Dennis said there was an agreement to straighten out the creek and thought it was on the deed. He will have to go back and find that information. Attorney Wigginton said he will get together with Dennis and review and documents, find out what ordinances were in effect in 1989, look at the final plat, etc.

Steve confirmed that time is running out on this. He said the key is what was in place in 1989. Kevin said he is concerned with putting in a larger culvert and putting more water on the neighbor's property. Steve said the road and the culvert were in existence before the Huelsmans built their home. The home was placed in a swale below grade and Steve further said the roadway is acting as a dam. Steve said from a municipal standpoint, the municipality does not have any liability for the issuance, denial or approval of a permit for a plat. He also said there is a one-year statute of limitations for municipalities and one year from the date you knew or should have known and they came here in 2000. Dennis said he did not intend his analysis to be a solution but only intended to make it clear that

installing a larger pipe is most likely not the answer. Kevin would like to find a solution if we can afford it. Steve said it may come down to finding the engineering solution and tell them the cost will have to be split between them and the developer. Dennis said there is not a simple solution. We had previously suggested to the Huelsmans they put a berm, retaining wall and sump pump in at the back of their house and they didn't want to do that.

A. OLD BUSINESS:

1. Approval of March 4, 2009 Minutes: *Trustee Charlie Mattern motioned to approve the March 4, 2009 minutes and Trustee Rita Baker seconded the motion.* All voting aye, motion carried.
2. Community Improvement Board/Material Requirements on Commercial Buildings/Nuisance Abatement Code: Kevin reported the minutes from the last meeting were put in the trustee's boxes. Dennis reported they have pretty much finished with the nuisance code and are discussing the occupancy permit issue.
3. Status of Public Hazard Homes: Kevin said we don't have anything other than the Sheets' appeal. We discussed the house on W. White Street. Ron reported it is in worse shape than the Koesterer home. Steve's advice is to move forward with the demolition and further said both Dennis and Ron should look at the house and prepare an inspection report on it. They can do so based on their experience, training or education. Ron looked at the Wilderman house and it is bad on the edges.
4. TIF litigation: Steve said the developer received our last counterproposal, his attorney has been in trial so we are just waiting to get a response.
5. Drainage easement grades: Skipped.
6. Bill's Autobody: The thirty days for Bill to start cleaning up his junkyard is up on Friday and he has not done anything. If we send out one more letter, the next step after that would be a non-traffic ordinance violation. a court order would be issued stating he has to clear up the junkyard. The court would hold him in contempt if he doesn't comply with the order. The committee directed Dennis to send him another letter.
7. Dusk to Dawn Lighting: Kevin will discuss this topic at the next committee meeting.
8. Updating our code: The code books will be updated once the supplement is received.
9. Building code application: Kevin said we are waiting for recommendations from the Community Improvement Board.

10. Unpaid utility bills: Jane has the information. We will get it into next month's packet.

B. NEW BUSINESS:

1. Bob and Georgia Huelsman: See Public Participation above.

Kevin said the garage roof on Main Street is still lying on the ground. Kevin thought Phil was told it was going to be cleaned up. Dennis will talk to Phil and have him talk to the owner.

Kevin said there is graffiti on Main Street and Dennis advised it was painted over either yesterday or today.

C. GENERAL CONCERNS: Ray received a request from Mike Smithson from 1st Choice Fencing, for a recommendation. Ron said they did a good job on the new power plant fence, they just had a problem with the gate.

Trustee Rita Baker motioned to recommend to the full Board the Village of Freeburg provide a recommendation for Mike Smithson of 1st Choice Fencing and Trustee Kevin Groth seconded the motion. All voting aye, the motion carried.

D. PUBLIC PARTICIPATION: See above.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn the meeting at 6:20 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, March 4, 2009 at 5:00 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:05 p.m. by Chairman Kevin Groth on Wednesday, March 4, 2009, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Mayor Ray Danford, Village Clerk Jerry Menard, Village Administrator Dennis Herzing, Zoning Administrator Phil Borger and Office Manager Julie Polson. Guests present: Chad Rhutasel, Bill Herr and Frank Heiligenstein.

A. OLD BUSINESS:

1. Approval of February 5, 2009 Minutes: Trustee Rita Baker motioned to approve the February 7, 2009 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: The topic of the building code was discussed in length at last night's Committee as a Whole Meeting. Kevin said the Community Improvement Board will carry on with their review of the Village code and make their recommendations to this committee. Charlie said he agrees with Bob Koerber in that what someone does in their own house is their business but once it is opened up by someone coming into your business or you rent to someone, we have a responsibility to protect. Kevin said he is in agreement with Dennis' comment last night about differentiating between residential and commercial. Dennis said there is a big difference between owner occupied and rented units. Kevin brought up the old railroad motel stating once that has been remodeled, an inspection would probably be in order.

3. Status of Public Hazard Homes: Kevin said there is not much left on this item except the wells need to be taken care of on Sheets property. Rita asked if the roof is getting bad on the Wilderman house. That is the home on N. Main and Koesterer (Kinzinger home). Dennis will take a look at it.

4. TIF litigation: This topic was discussed at the March 2, 2009 board meeting.

5. Drainage easement grades: The committee agreed to leave on the agenda. Kevin asked if the Community Improvement Board has discussed this yet and Dennis advised not yet. Their list is pretty full but this will be added to it. Charlie said it still needs to be addressed as these problems will be ours by default because the homeowner has no-one else to turn to. Charlie brought up incorporating this into the building permit to insure the lot grade was correct at the time the

Legal and Ordinance Committee Meeting
Wednesday, March 4, 2009
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occupancy permit is issued. Dennis said our response to the homeowner with a problem like this has always been it is a civil issue between the neighbors. Dennis reminded the committee language is put onto the plats that states the homeowner is responsible for maintaining drainage ditches and is not the Village's responsibility. The committee agreed to further discuss adding this to the building permit.

6. Bill's Autobody: Bill Herr was present to discuss the appearance of his business on N. State Street. He asked the committee for 30 days to get everything out in front cleaned up. Kevin said that would be fine and told Bill we greatly appreciate him getting the area cleaned up.

7. Dusk to Dawn Lighting: Kevin will discuss this topic at the next committee meeting.

8. Updating our code: Frank was present to discuss the options we have available to update our code. Kevin advised we passed on the contract at the last board meeting. Frank passed around a revised contract. Frank said there are different ways to update the code. You can start from scratch and codify the code. You can supplement the existing code. You can also review and critique the existing code to see what is missing, what needs to be updated. Frank would provide documents for this committee to review that would fill in the voids in our code as well as recommendations on what we no longer need in the code. The review will cost \$500.00. Frank reviewed some items that should be included in the code, i.e. liquor code revisions, public safety, identity theft, etc. Kevin asked about putting our code on cd and Frank said there might be a problem with the Freeburg one. The committee agreed to have Frank supplement the code and have that done by election time and then have Frank review the code and offer his recommendations at a cost of \$500.00. No formal motion was made.

9. Building code revision: Discussed briefly under #2 above and more in depth at Committee as a Whole last night.

B. NEW BUSINESS:

1. Brower Ordinance Violation Case: Julie put in the packet for informational purposes.

C. GENERAL CONCERNS: Rita talked to Mr. Stumpf who said he had 24 lawnmowers available and Ray said he had heard they had been moved to a property outside of town.

D. PUBLIC PARTICIPATION: Chad Rhutasel was present to discuss his concerns about landlords being responsible for a renter's unpaid utility bill. He passed out information on Mascoutah's policy which does not hold the landlord responsible. A copy of our own code was provided to the committee. Chad talked to Corby after the board meeting who brought up the suggestion if we got a credit card machine here, we could charge the credit card if a utility bill went unpaid. Chad asked if we

could increase our utility deposits. Rita asked Chad if he could also raise his deposits and Chad said yes, he could. Kevin said we are doing a little to help the landlord, but not a lot and asked if there was some way we could turn them over to a collection agency. Dennis said we could look into that but said we are probably not large enough for it to be cost effective. Dennis did tell the committee that Jane does go through a lot to try and collect the unpaid bills. Kevin said he would like to see us come up with other ways to put pressure on the renters that leave unpaid bills. Dennis said from conversations with our attorney, that is why it runs with the land and easy to place a lien, because it isn't easy to chase these people down. Chad asked if there is a way we can report them to a credit agency and Dennis said he will check with our attorney. Charlie asked if we could leave it up to the landlord on how much they want the deposit to be. Dennis asked why do we want to be the middleman and complicate our system? That would create a lot more work for the office staff. If the landlord wants higher deposits, let them increase their own deposit. Jane will check with the surrounding municipalities to see what their renter deposits are.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn the meeting at 6:20 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*


Julie Polson
Office Manager