



## CITY OF FREEPORT

125 Main Street E – PO Box 301 – Freeport, MN 56331 – 320-836-2112 – FAX 320-836-2116  
For TTY/TDD Users 1-800-627-3529 or 711 Minnesota Relay Service [www.freeportmn.org](http://www.freeportmn.org)

**December 16, 2014** - Special Meeting Agenda  
Freeport City Hall - 7:00 pm

### Call to Order

#### I. Approve Agenda – *Motion to approve*

Public Hearing to Consider Ordinance 2014-006 re: EDA Bylaws (pgs. 25-28)

Presentation by Initiative Foundation and Request for Donation

Public Hearing to Discuss 2015 Budget & Levy

#### II. Consent Agenda – *Motion to approve*

- a. Claim 1678 -1704 (pgs. 2-5)
- b. Clerk-Treasurer Report (pgs. 6-14)
- c. Public Works Director Report (pg. 15)
- d. November 25, 2014 Meeting Minutes (pgs. 16-19)

#### III. Old Business

- a. KDV Engagement (pg. 20) – *Motion to accept*
- b. 204 1<sup>st</sup> Ave N

#### IV. New Business

- a. Resolution 2014-037 re: 2015 Budget & Levy (pg. 22) – *Motion to approve*
- b. Resolution 2014-038 re: EDA Bylaws (pgs. 23-28) – *Motion to approve*
- c. City Council Vacancy (pg. 29) – *Motion to authorize*
- d. Tri-County Human Society Agreement (pgs. 30-32) – *Motion to approve*

#### V. Adjourn – *Motion to adjourn...*

Next Meetings: Jan 27<sup>th</sup>

12/11/14  
12:35:26

CITY OF FREEPORT  
Claim Approval List  
For the Accounting Period: 12/14

Page: 1 of 4  
Report ID: AP100

\* ... Over spent expenditure

Claim	Vendor #/Name/	Document \$/	Disc \$						Cash
Check	Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object	Proj	Account	
1678	641 FREEPORT ELECTRIC, INC.	376.12							
14	11/29/14 Street light maint/xmas lights	376.12*			101 43160	311		10100	
1679	145 FINKEN WATER CENTERS	35.40							
3347562	12/01/14 Softener Rental	15.00*			101 41000	410		10100	
52699TD	12/01/14 Drinking water gallons	12.40			101 43100	210		10100	
3347572	12/01/14 Rental cooler	8.00*			101 43100	410		10100	
1680	258 LEAGUE OF MN CITIES	771.00							
201948	12/01/14 LMC Membership Dues 2015	771.00*			101 41000	434		10100	
1681	397 RINKE-NOONAN, LTD	589.00							
234560	12/03/14 J Buetz nusiance	525.55			101 41000	302		10100	
234560	12/03/14 R Atkinson nusiance	63.45			101 41000	302		10100	
1682	387 RAHNS OIL & PROPANE, INC	597.86							
11/30/14	FFD	53.03			225 42200	215		10100	
11/30/14	City	527.35*			101 43100	215		10100	
11/30/14	EDA	17.48			300 46500	210		10100	
1683	174 GOPHER STATE ONE CALL, INC.	39.25							
128428	11/30/14 Email Tickets	2.18			601 43225	300		10100	
124828	11/30/14 Email Tickets	2.17			602 43250	300		10100	
123102	08/31/14 Email Tickets	10.92			601 43225	300		10100	
123102	08/31/14 Email Tickets	10.93			602 43250	300		10100	
125339	09/30/14 Email Tickets	6.53			601 43225	300		10100	
125339	09/30/14 Email Tickets	6.52			602 43250	300		10100	
1684	525 XCEL ENERGY	2,373.71							
436844639	12/02/14 302188142	150.56*			601 43225	381		10100	
436844639	12/02/14 302252262	87.40			101 43160	381		10100	
436844639	12/02/14 302290398	102.38			101 41000	381		10100	
436944639	12/02/14 302679657	156.67			101 43100	381		10100	
436944639	12/02/14 302700297	22.46			602 43250	381		10100	
436944639	12/02/14 302947044	172.23*			601 43225	381		10100	
436944639	12/02/14 303193187	27.00			602 43250	381		10100	
436944639	12/02/14 303616049	148.94			225 42200	381		10100	
436944639	12/02/14 303936749	47.22			101 43160	381		10100	
436944639	12/02/14 303956738	461.26			101 43160	381		10100	
436944639	12/02/14 303963984	257.16			101 43160	381		10100	
436944639	12/02/14 303985901	35.95			101 43160	381		10100	
436944639	12/02/14 304083816	12.56			101 43160	381		10100	
436944639	12/02/14 304098414	16.46			602 43250	381		10100	

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Check	Invoice #/Inv Date/Description	Line \$		PO #	Fund Org Acct	Object	Proj	Account	
	437011929 12/03/14 street lights	675.46*			101	43160	300	10100	
1685	543 SAFEGUARD	206.18							
	C4L6TK 11/19/14 Utility Bill Cards	103.09			601	43225	210	10100	
	C4L6TK 11/19/14 Utility Bill Cards	103.09*			602	43250	210	10100	
1686	596 MASON SCHIRMER	42.56							
	10/20/14 Special Pay Equity Mtg	13.44			101	41400	335	10100	
	12/02/14 KDV Annual Seminar	29.12			101	41400	335	10100	
1687	544 COMPUTER HELP SERVICES	1,613.75							
	448 12/01/14 New computer/set up	1,377.25*			101	41000	300	10100	
	448 12/01/14 External harddrive	236.50*			101	41000	300	10100	
1688	15 ALBANY MUTUAL TELEPHONE	343.10							
	10187474 12/01/14 836-2116	69.06			101	41000	320	10100	
	10187474 12/01/14 836-2685	17.70			601	43225	320	10100	
	10187474 12/01/14 836-2685	17.69			602	43250	320	10100	
	10187474 12/01/14 836-7158	38.51			101	41000	320	10100	
	10187474 12/01/14 836-2278	65.68			101	43100	320	10100	
	10187474 12/01/14 836-2411/2413	72.85			225	42200	320	10100	
	10187474 12/01/14 836-2112	61.61			101	41000	320	10100	
1689	32 ARNZEN CONSTRUCTION, INC	2,000.00							
	46199 11/24/14 Corn Bin Recovery Panels	2,000.00*			225	42200	210	10100	
1690	562 MINNESOTA DEPARTMENT OF HEALTH	23.00							
	12/02/14 Water Operator Renewal	23.00*			601	43225	431	10100	
1691	11 ALBANY AREA HOSPITAL & MEDICAL	545.00							
	11/05/14 Firemen physicals	545.00			225	42200	333	10100	
1692	437 STAR PUBLICATIONS LLC	27.60							
	139258 11/30/14 City Code 500.5 hearing	13.80			101	41000	350	10100	
	139258 11/30/14 City Code 2010 hearing	13.80			101	41000	350	10100	
1693	52 BLACK MOUNTAIN SOFTWARE, INC.	3,793.00							
	19121 12/01/14 UB maintenance	408.50*			601	43225	433	10100	
	19121 12/01/14 UB maintenance	408.50			602	43250	433	10100	
	19121 12/01/14 Email Bill maintenance	30.50*			601	43225	433	10100	
	19121 12/01/14 Email Bill maintenance	30.50			602	43250	433	10100	
	19121 12/01/14 ACH maintenance	107.00*			601	43225	433	10100	
	19121 12/01/14 ACH maintenance	107.00			602	43250	433	10100	
	19121 12/01/14 Meter reading maintenance	82.50*			601	43225	433	10100	
	19121 12/01/14 Meter reading maintenance	82.50			602	43250	433	10100	
	19121 12/01/14 Accting maintenance	1,158.00*			101	41000	433	10100	
	19121 12/01/14 Budget prep maintenance	463.00*			101	41000	433	10100	

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	19121	12/01/14	Payroll maintenance		810.00*		101 41000	433	10100
	19121	12/01/14	Payroll ACH maintenance		75.00*		101 41000	433	10100
	19121	12/01/14	Rate Anaysis maintenance		30.00*		101 41000	433	10100
1694			385 QUILL		82.95				
	8186264	11/25/14	Cleaning supplies		82.95		101 41000	210	10100
1695			107 DANNY'S DISPOSAL & RECYCLING,		131.80				
		12/01/14	Fire Hall		29.41		225 42200	383	10100
		12/01/14	City		102.39*		101 43100	383	10100
1696			418 SEH, INC.		187.25				
	280319	04/07/14	General Engineering		187.25*		415 43100	300	10100
1697			179 GRANITE ELECTRONICS, INC.		83.35				
	456348	11/21/14	Battery Minitor		83.35*		225 42200	210	10100
1698			597 KDV, LTD		490.00				
	211864	11/26/14	Nov 2014 Audit Prep		490.00*		101 41000	300	10100
1699			70 CENTERPOINT ENERGY		147.32				
		11/21/14	Fire Hall		46.27*		225 42200	382	10100
		11/21/14	Maintenance Building		101.05		101 43100	382	10100
1700			510 VERIZON WIRELESS		112.21				
	9735739841	11/19/14	Cell Phone		112.21		101 43100	320	10100
1701			76 CENTRAL MINNESOTA CREDIT UNION		276.11				
		11/04/14	Beacon		1.00*		101 41000	433	10100
		11/04/14	Firehall pipe		14.98		225 42200	220	10100
		11/05/14	UB stamps		51.00		601 43225	200	10100
		11/05/14	UB stamps		51.00		602 43250	200	10100
		11/10/14	Freeport Gas		19.63		101 43100	210	10100
		11/19/14	Stamps		98.00		101 41000	200	10100
		11/26/14	Maintenance Building supplies		36.71		101 43100	210	10100
		11/19/14	Wayne Revering Notice		3.79		101 41000	200	10100
1702			195 HENRYS WATERWORKS, INC.		251.50				
	17549	12/04/14	Sanity Sewer Lid		251.50*		602 43250	210	10100
1703			643 BACKWATER, INC.		153.37				
	529	12/03/14	Battery charger for trucks		121.37*		225 42200	210	10100
	529	12/03/14	Spot lights		32.00*		225 42200	210	10100

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1704			40 AUTO VALUE-ALBANY		17.98				
	26134781	11/25/14	Antifreeze for truck	17.98*			101 43100	401	10100
			# of Claims	28	Total:				15,426.87
									15,426.87

# Memo

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From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: December 11, 2014

Re: Clerk-Treasurer Report

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**New Munich Wellhead Protection Plan Part II** – Received and 60-day comment period is open. New Munich has a public hearing scheduled for Feb 2<sup>nd</sup> at 6:30pm at New Munich City Hall. Report is available for inspection.

**Recently Elected Officials** – The recently elected officials shall be sworn-in at the first meeting in January, currently scheduled for Jan 27<sup>th</sup>.

**Status of Plea Agreements for Nuisances** – Along with this report is a copy of an email from Attorney Matthew Loven stating that the plea agreement entered-into by Rodney Atkinson to address nuisances identified this past summer is considered satisfied. James Beutz has until spring to satisfy the terms of his plea agreement.

**Open Meeting Law** – It has been brought to the city’s attention that city council member / mayor-elect Rodney Atkinson held a private meeting with council members-elect Tim Hennen and Ben Etle. Furthermore, it came to the city’s attention that another meeting was being planned to possibly interview people interested in being appointed to Atkinson’s soon-to-be vacated city council seat. Along with this report are copies of emails sent by City Attorney Adam Ripple to city council members and city council members-elect. To ensure complete compliance with open meeting law, I recommend the city authorize the posting of the position for 60 days, asking any person interested to complete an application. Then, after 60 days, council can decide if the seat even needs to be filled. I recommend 60 days to provide residents the opportunity to attend 1 or possibly 2 city council meeting before they decide if they want to be considered.

**Contracts with Sacred Heart Parish** – Along with this report is an email from Chris Smith with his opinion regarding the agreements the City in entered in-to with Sacred Heart Parish. Chris Smith is an attorney with the League of MN Cities that specializes in contract review.

## Mason Schmirmer

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**From:** Matthew Loven <MLoven@rinkenoonan.com>  
**Sent:** Tuesday, December 09, 2014 2:52 PM  
**To:** Mason Schmirmer  
**Cc:** Leilani Heinen  
**Subject:** FW: 22426-0001 Freeport, City of - Prosecutions: General Prosecutions: Rodney Atkinson  
**Attachments:** Letter to Court Administrator 12 09 14 Sentencing .pdf

Mason:

Attached is the dismissal letter we submitted to Stearns County Court Administration regarding the above referenced file.

Please note that dismissing this matter does not prohibit the City of Freeport from issuing future citations to the owner of the subject property if the property is not maintained in accordance with the City Code of the City of Freeport. Should you have any questions or concerns regarding this matter do not hesitate to contact me.

Sincerely,

Matthew J. Loven  
Attorney

**RINKE NOONAN**  
Suite 300, US Bank Plaza  
P.O. Box 1497  
St. Cloud, MN 56302  
(320) 656-3510 Direct  
(320) 656-3500 Fax

[website](#) | [email](#) | [bio](#) | [map](#)



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**From:** Leilani Heinen  
**Sent:** Tuesday, December 09, 2014 2:09 PM  
**To:** Matthew Loven  
**Subject:** Rodney Atkinson

Here is a copy of the letter to the Court for you to email to Mason.

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December 9, 2014

Direct Dial: 320-656-3510  
Mloven@RinkeNoonan.com

Court Administrator  
Stearns County Courthouse  
725 Courthouse Square  
St. Cloud, MN 56303

**SENT VIA FACSIMILE ONLY AT 320-656-6335**

**Re: State of Minnesota v. Rodney Edward Atkinson  
Court File No. 73-CR-14-7253  
Our File No. 22426-0001**

Dear Court Administrator:

Please be advised that the Defendant in the above entitled matter has complied with the terms as set out in the Sentencing Order dated September 25, 2014 with regard to the above referenced matter. As such, we request the charge be dismissed.

If you have any questions or need anything further, please do not hesitate to contact me or my paralegal, Leilani Heinen.

Sincerely,

  
Matthew J. Loven  
MJL/lmh

cc: Mason Schirmer (via email)  
Rodney Atkinson



## Mason Schirmer

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**From:** Adam Ripple <ARipple@rinkenoonan.com>  
**Sent:** Wednesday, December 10, 2014 8:10 AM  
**To:** Atkinson Well & Pump  
**Cc:** Mason Schirmer (mason@freeportmn.org)  
**Subject:** RE: 15542-0001 City of Freeport

Rodney,

The current council members' terms expire once the new council members take office.

I don't think there is a misunderstanding. I am very concerned about council-elect meeting with one or more council members whose terms do not expire, and engaging in discussions or making decisions such as who to appoint to a vacancy once those council-elect take their office. If that is not what's being discussed, please correct me. The concern is that IPAD (Information Policy Analysis Division of the Minnesota Department of Administration), the Attorney General's office, or a District Court judge could issue an opinion finding a violation of the open meeting law. And, it just plain looks bad to outside observers.

I do not understand why any current or elected council member would want to take that risk and subject themselves and the city to potential (1) fines, (2) reprimands from state agencies or the court, (3) bad press, and (4) angry residents. Especially when there is a more conservative option that clearly complies with the letter and intent of the law—just do it at a public meeting. I am happy to help facilitate the wishes of the city council in a manner that respect the open meeting law.

Adam A. Ripple  
Attorney

**RINKE NOONAN**  
Suite 300, US Bank Plaza  
P.O. Box 1497  
St. Cloud, MN 56302  
(320) 251-6700 General  
(320) 257-3868 Direct  
(320) 656-3500 Fax

[website](#) | [email](#) | [bio](#) | [map](#)



For prompt assistance, please contact my paralegal,  
Mary Jo at (320) 656-3553 or [mjrowan@rinkenoonan.com](mailto:mjrowan@rinkenoonan.com)

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**From:** Atkinson Well & Pump [mailto:rodney@albanytel.com]  
**Sent:** Tuesday, December 09, 2014 9:51 PM  
**To:** Adam Ripple  
**Subject:** RE: City of Freeport

Adam Ripple

Maybe there is a misunderstanding. I guess the real question is "when does the current council's term expire?"  
Rodney

---

**From:** Adam Ripple [<mailto:ARipple@rinkenoonan.com>]  
**Sent:** Tuesday, December 09, 2014 9:48 AM  
**To:** 'Ben & Bethanie'; 'Atkinson Well & Pump'; 'Tim Hennen'; [mattworms@albanytel.com](mailto:mattworms@albanytel.com); [grandparonnie@hotmail.com](mailto:grandparonnie@hotmail.com); [carebel@albanytel.com](mailto:carebel@albanytel.com)  
**Cc:** Mason Schmirmer; Scott Hamak  
**Subject:** City of Freeport

Council Members and Council-Elect,

As I stated in my email last month, non-public posted meetings of council-elect and one or more current councilmembers to discuss city business is a very bad idea. The League of MN Cities shares this opinion and one of their attorneys has also communicated this to city representatives.

The legal nature of such meetings is unclear. However, where the purpose is to make decisions in advance of officials taking office, I am concerned that the scale may be tipped towards a violation.

At worst, such meetings are violations of the open meeting law subject to the penalties of Minnesota Statute 13D.06 (<https://www.revisor.mn.gov/statutes/?id=13D.06>) which include consequences for both the city and personal consequences for the individuals participating in the meeting. At best, such meetings violate spirit and intent of the open meeting law, which is that public business is conducted openly within the full view of the public. These types of non-public meetings are highly suspect by city residents and the media and often lead to very negative responses.

There is a very simple way to operate well within both the letter of the law and the spirit and intent of the law—post the meeting as an open public meeting. It can be done as a special meeting with three days' notice. The meeting can be conducted in an informal “workshop” type format. The council-elect can participate, just not vote on anything. The law provides for a lot of flexibility if this is done at an open meeting. I am happy to help the city work through a process that comports with the open meeting law.

**IN ORDER TO COMPLY WITH THE OPEN MEETING LAW, PLEASE DO NOT “REPLY TO ALL”.**

Adam A. Ripple  
Attorney

**RINKE NOONAN**  
Suite 300, US Bank Plaza  
P.O. Box 1497  
St. Cloud, MN 56302  
(320) 251-6700 General  
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For prompt assistance, please contact my paralegal,  
Mary Jo at (320) 656-3553 or [mjrowan@rinkenoonan.com](mailto:mjrowan@rinkenoonan.com)

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**From:** Mason Schmirmer [<mailto:mason@freeportmn.org>]  
**Sent:** Monday, December 08, 2014 3:01 PM  
**To:** 'Ben & Bethanie'

**Cc:** 'Atkinson Well & Pump'; Adam Ripple; 'Tim Hennen'

**Subject:** RE: Jon Gilk

Ben,

Yes. Rodney knows the open meeting law from his many years of experience as a council member and as a mayor. Furthermore, Rodney has been through multiple trainings and has been provided resources numerous times. You will learn about the process of holding public meetings during your upcoming 'newly elected officials' training. Feel free to stop-in, call or email me any other questions you may have.

Sincerely,

Mason Schirmer, MCMC  
Clerk-Treasurer, City of Freeport  
(320) 836-2112  
[mason@freeportmn.org](mailto:mason@freeportmn.org)



---

**From:** Ben & Bethanie [<mailto:bbettle@albanytel.com>]  
**Sent:** Monday, December 08, 2014 2:19 PM  
**To:** Mason Schirmer  
**Cc:** Atkinson Well & Pump; Adam Ripple (Attorney); Tim Hennen  
**Subject:** Re: Jon Gilk

If this meeting were to be held in city hall with you and Ken Gaebel present would that still violate open meeting?

Sent from my iPhone

On Dec 8, 2014, at 2:01 PM, Mason Schirmer <[mason@freeportmn.org](mailto:mason@freeportmn.org)> wrote:

Rodney,

On November 10<sup>th</sup> I advised you that such meetings are not a good idea as it appears you are simply trying to circumvent the open meeting law. Furthermore, on November 12<sup>th</sup> you were included on an email from City Attorney Adam Ripple, advising against such meetings which was incited by a conversation you had with a League of MN Cities attorney. You have been advised numerous times, by multiple sources, that such meetings are ill-advised. Your apparent lack of respect for the open meeting law poses a threat to liability and credibility.

Sincerely,

Mason Schirmer, MCMC  
Clerk-Treasurer, City of Freeport  
(320) 836-2112  
[mason@freeportmn.org](mailto:mason@freeportmn.org)  
<image001.jpg>

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**From:** Atkinson Well & Pump [<mailto:rodney@albanytel.com>]  
**Sent:** Monday, December 08, 2014 1:46 PM  
**To:** 'Mason Schmirmer'  
**Subject:** RE: Jon Gilk

It is our intention to meet on jan 6. The purpose would be to interview potential people for the council seat. Do you see any problems with this process?  
The honorable mayor elect

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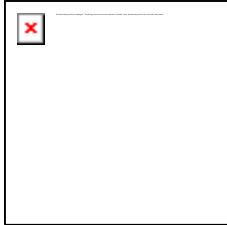
**From:** Mason Schmirmer [<mailto:mason@freeportmn.org>]  
**Sent:** Monday, December 08, 2014 9:15 AM  
**To:** Rodney Atkinson  
**Subject:** Jon Gilk

Rodney,

Jon Gilk called to say he's interested in being appointed to city council. I told him I would forward his interest on to you.

Sincerely,

Mason Schirmer, MCMC  
Clerk-Treasurer, City of Freeport  
(320) 836-2112  
[mason@freeportmn.org](mailto:mason@freeportmn.org)



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## Mason Schirmer

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**From:** Smith, Chris <CSmith@lmc.org>  
**Sent:** Thursday, December 11, 2014 11:13 AM  
**To:** 'Mason Schmirmer'  
**Subject:** RE: Contracts

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mason,

On its face, the contract might be considered unenforceable for a lack of consideration. There is nothing in the agreement showing the city is getting any benefit by agreeing to plow the church parking lot. Consideration may be the church leasing land to the city to be used as a park, but that is not clear. Perhaps consideration could also be the church agreeing to assume liability.

All city expenditures must also serve a "public purpose." The city cannot legally plow the church parking lot or any other non-city property for free just to be a good neighbor. However, the city could agree to do so for a fee. The city also cannot promote one religion over another. So if the city agreed to plow the Catholic church parking lot for a fee, the city would probably have to do so for a synagogue or some other religious faith.

In this case, the city needs to determine whether it is receiving something in value from the church that is proportionate to the city's cost to plow the parking lot. If the city is not receiving something of similar value, then the cost to plow the church parking lot would be an impermissible expenditure. The value to the city may be that is able to lease the church's land to be used as a city park for one dollar a year. That is a decision the city will need to make.

Assuming the contract has consideration and the city's expenditures serve a public purpose, the terms of the agreement are enforceable, and I think the city is pretty well protected.

It seems clear to me that the church is assuming all liability under the agreement.

Typically in a service agreement such as this, I would expect to see the service provider (the city) agree to have insurance and defend and indemnify the service recipient (the church) for any claims against the church. In other words, if the city's negligence caused a third party to be injured, I would expect the city to be liable.

There is nothing that says liability has to be handled in that way. If the church wants to assume liability as it has done here, it can agree to do so. But if I were the church I would be very concerned that my insurance coverage might not respond to claim. If that happened, the church could end up paying a claim out of church funds which I am sure is not the church's intent.

If the church intends to pick all liability, it needs to add the city as an additional insured or a named insured to its liability coverage. In the 11-20-14 clerk's report, there is a statement from Catholic Mutual Group (presumably the church's insurance company) that the "city cannot be labeled as 'additionally insured' on the parish's policy". I can understand why the church's insurer would not want to do this but I certainly think the insurance company could add the city as an additional insured. In any event, the church's contractual liability coverage might pick up a claim caused by the city's negligence.

There is also a problem in regard to property damage to the snowplow itself or other property the snowplow might hit. Typically, automobile coverage follows the vehicle. In other words the city's automobile coverage is primary and

would respond if the snowplow was damaged or the snowplow damaged another vehicle or other property. But the church is responsible under the agreement. The problem for the church is that its own automobile coverage will not respond to the claim unless it has paid an additional premium to make the church's coverage primary for non-owned vehicles. I don't know if the church has done that. If not, it is taking on the risk that it may not have any insurance for a property damage type claim.

In conclusion I see three main issues:

1. Is the snow removal contract supported by consideration? In other words, is the city receiving something of value (even if quite small) in return for performing the snow plow services? If not, the contract is invalid for lack of consideration.
2. Do the city expenditures in plowing the church parking lot serve a public purpose? If not, the expenditures are not permissible. The city should be getting something of similar value (e.g. upkeep of the park) in return for plowing the snow.
3. If the contract is valid, does the church have the insurance to meet its obligations under the agreement? While I cannot represent the church, I have a hunch that the church's indemnification obligations under the contract may not be covered by insurance. If that is the case, the church is taking on a huge risk since a claim might have to be paid from church funds. While a property damage claim might be manageable, a catastrophic personal injury claim could probably bankrupt the church.

While I cannot express an overall opinion as to the validity of the contract, my thought is that it would be in the best interests of the parties to mutually agree to terminate the snow plowing agreement. If I were the church, I would be very concerned about liability and would want out of the contract as soon as possible.

If the city has the resources to plow the church parking lot, the parties could enter into another agreement where the city would get paid fair market value for its service and the city would accept liability if it is negligent.

If you have any questions or would like to discuss further, please let me know.


Chris

**Christopher Smith** | Risk Management Attorney  
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# PUBLIC WORKS REPORT

Good evening:

Water: Kim Larsen with the MN Department of Health was out and did some annual tests on our well houses. She was very pleased with how clean and neat the well houses looked. Quarterly Bac T samples, Water Quality Parameters, and Fluoride samples all came back good.

Wastewater: Ponds are filling in a parallel circuit which means influent is running equally into ponds 1 and 2. Pond 3 is full at 72 inches and ready for discharge come April 15<sup>th</sup>.

Maintenance: Christmas lights are hung and operating properly. If at any point anyone sees that bulbs are out or a light isn't functioning feel free to contact me and let me know as I'm not always driving through at night to see them. The box on the work truck is getting very rusty and I will be getting a quote for a new one. The truck runs great and works for all our needs so I don't see any reason to retire the truck. I think it will be more cost effective to just replace the box. Also I ordered a water softener for at the shop through Phil Ostendorf. This should help prevent rusting of vehicles when we wash them. Currently the hard water we have aids in corrosion and rusting of the vehicles.

Any questions or concerns feel free to contact me @ 1320 333 8904.

Thank you

Jon Stueve

Public Works Director



## CITY OF FREEPORT

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### November 25, 2014 - Meeting Minutes

A regular meeting of the Freeport City Council was convened at 7:00pm by Mayor Matt Worms with Councilmembers Ken Goebel, Ron Ritter, Carrie Goebel and Rodney Atkinson present.

Staff in attendance: Clerk-Treasurer Mason Schirmer, Engineer Dave Blommel.

Residents in attendance: Ben Eittle (312 1<sup>st</sup> Ave N), Tim Hennen (303 3<sup>rd</sup> St SE), Vernon Fuchs & Andrea Ramacher (720 1<sup>st</sup> Av N), Bryan Kasten & Jenne Jenson (129 7<sup>th</sup> St SW Tenant - Fastlane Auto), Mike Dickhaus (129 7<sup>th</sup> St SW – Property Owner).

#### **Approve Agenda**

Schirmer recommended 1) adding 'h. KDV Engagement Letter' to New Business; and 2) moving claim approval from Consent Agenda 'h' to New Business. Atkinson said a comment he made during the October 28, 2014 meeting was not in the minutes. Schirmer recommended moving item 'a' (10-28-14 meeting minutes) from the consent agenda to New Business. C. Goebel moved and K. Goebel seconded a motion to approve the agenda with the changes. Motion carried 4-0 (Atkinson abstained).

#### **Public Hearing on Ordinance 2014-005 Regarding Building Design Standards (City Code 500.50)**

Worms moved and C. Goebel seconded a motion to open the public hearing. Public hearing opened at 7:08pm. C. Goebel moved and K. Goebel seconded a motion to close the public hearing. Motion carried 3-0 (Atkinson abstained). Public hearing closed at 7:11pm.

#### **Public Hearing on Ordinance 2014-006 Regarding Public Nuisances (City Code 2010)**

Worms moved and K. Goebel seconded a motion to open the public hearing. Motion carried 3-0 (Atkinson and Worms abstained). Public hearing opened at 7:12pm.

Atkinson asked if his slated fence would violate the text regarding gaps in wood. Hennen questioned if the city should be policing tears in window screening. Hennen said some of the proposed text is good, but not policing window screening. Ritter said some of it seems extensive and asked where to draw the line. Worms questioned policing foundations for plum as well.

Atkinson moved and C. Goebel seconded a motion to close the public hearing. Ritter said some of the text could be thrown out. Motion carried 5-0. Public hearing closed at 7:20pm.

#### **Consent Agenda**

K. Goebel moved and Ritter seconded a motion to approve the consent agenda: b) November 10, 2014 special meeting minutes; c) Clerk-Treasurer Report; d) Resolution 2014-032; e) Resolution 2014-033; f) Budget Amendments 19-27; and g) Public Works Director Report. Motion carried 5-0.



## **Old Business**

### Finding of Fact for Approval of Building Permit at 126 7<sup>th</sup> St S

Schirmer said the decision to approve the building permit during the October 28, 2014 meeting was made against the recommendation of the city's land use professional, Cynthia Smith-Strack of Municipal Development Group. Schirmer said the city should state facts used for the basis of the decision. Atkinson said the decision was made because the city code did not state a limit on how high a fence can be off the ground. Schirmer said Smith-Strack's recommendation cited city code why the city should not approve the request. Schirmer said the city did not accept those reasons; therefore, the city should state the facts used to approve the request. K. Goebel said the permit was approved since the fence did not exceed eight feet in height. C. Goebel moved and K. Goebel seconded a motion to approve Findings of Fact for the approval of the building permit at 126 7<sup>th</sup> St S to state the fact for approval was because the fence was not going to exceed eight feet in height. Motion carried 3-0 (Atkinson and Worms abstained).

### Main Street Trash cans

K. Goebel moved that the trash cans along Main Street be removed and disposed of. K. Goebel said no other area cities provide trash cans, and they are being abused by people emptying personal garbage from the vehicles into them. K. Goebel said if a business wants a trash can outside their building it should be theirs to maintain. Atkinson moved and Ritter seconded that the trash cans be kept and they should be checked daily. Motion carried 3-2 (K. Goebel and Worms opposed).

### 204 1<sup>st</sup> Ave North

C. Goebel moved and Ritter seconded a motion to reschedule discussion for December 16, 2014. Motion carried 3-0 (K. Goebel and Worms abstained).

### 129 7<sup>th</sup> St SW

Schirmer presented emails from the property owner saying Schirmer had treated him with respect. Schirmer asked Kasten if the property is now in compliance. Kasten said he believes it is; however, the playset behind the building is for their children.

Worms asked Schirmer about vehicles at the property. Schirmer said he visited the property previously; however, since the November 25<sup>th</sup> meeting during which the tenant accused him of mistreating them, he refrained from visiting the property again until directed. Schirmer said he contacted Kasten the week of November 17<sup>th</sup> and was told the work was 90% done. Kasten said he will be erecting a fence in the spring. C. Goebel said small children need something to do and going anywhere residential you see swing sets, as long as it's not falling-over or missing pieces. Kasten said it would be put together in the spring. Kasten said the property is in compliance, except for a trailer being repaired in the front of the property. C. Goebel moved and Ritter seconded a motion to consider the property back in compliance. Motion carried 4-0 (Atkinson abstained).

## **New Business**

### Resolution 2014-034 (re: metal roofing)

K. Goebel moved and C. Goebel seconded a motion to approve Resolution 2014-034 A Resolution Approving Ordinance 2014-005 Entitled "An Ordinance Repealing And Replacing Section 500.50 Of The Freeport City Code Relating To Building Design Standards" And Providing For Authorizing Summary Publication Thereof." Motion carried 5-0.

### Resolution 2014-035 (re: public nuisances)

Atkinson made a motion to not approve Resolution 2014-035. Schirmer recommended not using motions in the negative. Atkinson made a motion to continue with current ordinance. Schirmer recommended that if the city council does not want to approve the proposed resolution, than don't make a motion to approve it and it will go away and the subsequent proposed resolutions will be renumbered.

K. Goebel said the proposed resolution should be discussed and parts can be thrown-out.

Atkinson said he does not think the change to the ordinance is a good idea. Schirmer asked Atkinson why he had not voiced his opinion in November or October, when the city started the process. C. Goebel asked Atkinson, "new opinions?" Atkinson said, "Carrie, be careful." Schirmer asked Atkinson is he was making a subtle comment. Atkinson said, "I'm trying to read through this 600-page book," referring to Robert's Rules of Order.

Worms called three times for a motion to approve Resolution 2014-035 regarding public nuisances. No motion made, proposed resolution dismissed and subsequent proposed resolutions renumbered.

#### Resolution 2014-035 (re: Unpaid Fees)

K. Goebel moved and C. Goebel seconded a motion to approve Resolution 2014-035 A Resolution Certifying Unpaid Municipal Fees Against Property. Motion carried 3-0 (Atkinson and Worms abstained).

#### Resolution 2014-036 (re: EDA bylaws)

K. Goebel moved and Ritter seconded a motion to approve Resolution 2014-036 A Resolution Calling For A Public Hearing On Ordinance 2014-006, Entitled "An Ordinance Repealing And Replacing Section 1405 Of City Code Relating To Bylaws Of Freeport Economic Development Authority." Motion carried 4-0 (Atkinson abstained).

#### Pre-application from Atkinson Well & Pump Ltd for RLF Loan

K. Goebel moved and Ritter seconded a motion to accept the recommendation of the EDA and deny the pre-application from Atkinson Well & Pump Ltd for a Revolving Loan Fund loan. Motion carried 3-0 (Atkinson and Worms abstained).

#### Estimate for Carpet Rug at Senior Citizens Center

C. Goebel moved and Atkinson seconded a motion to accept the estimate from Hennen Floor Covering for a 4'x21' rug for use at the Senior Citizen Center. Motion carried 5-0.

#### 2015 Preliminary Budget with Recommended Changes

Schirmer provided an updated copy of the 2015 budget for council members to review.

#### KDV Engagement Letter

Schirmer presented an engagement letter from KDV Ltd for audit preparation services. C. Goebel moved and K. Goebel seconded a motion to accept the engagement letter from KDV Ltd. Atkinson said the letter discloses hourly rate; however, not estimated total cost. Council members agreed that total estimated cost is needed and said discussion should be rescheduled for December 16, 2014. Motion failed 1-4 (K. Goebel, C. Goebel, Atkinson, Worms opposed). Schirmer said he will ask KDV Ltd for a total estimated cost and have the item on the agenda for the December 16, 2014 meeting.

#### October 28, 2014 Regular Meeting Minutes

Atkinson said he thought he said the city should try to get Microsoft Office Professional, after the motion was made to purchase a new computer. Schirmer said a comment could be added, but it would be up to Atkinson to say what he wants added. Schirmer asked Atkinson if he wanted to include a sentence that stated 'Atkinson recommended that the city try to get Microsoft Office Professional when purchasing the new computer.' Atkinson said he does not remember what he said and asked if he did say something along those lines. Schirmer told Atkinson he had and that such a sentence would be fine. Atkinson said it was his expectation that the new computer come with Microsoft Office Professional. Schirmer asked Atkinson to propose a sentence for council to consider. Atkinson said he can't remember what he said. Worms moved

and Ritter seconded accept the October 28, 2014 meeting minutes as presented. Motion carried 4-1 (Atkinson opposed).

#### Claims 1635-1675

Schirmer presented updated claims as well as estimates for website corrections and an external hard drive. Schirmer said the external hard drive would be used to routinely backup files. C. Goebel recommended storing the external hard drive off premise. Schirmer said the city could buy two, storing one in a fireproof cabinet and the other elsewhere. Atkinson said, "I was going to recommend purchasing two also, but then as you spoke I started to get this vision of this cloud with the blessed virgin coming down. But the cloud storage where they store it somewhere in outer space I guess; you pay so much a month and you don't have an actual physical thing, you just send it out to somebody out in never-never land, and is that cost effective and feasible?" Schirmer said most people do not understand how the cloud works. Atkinson said, "Except the blessed virgin." Schirmer said the League of Minnesota Cities recommends against it because you don't have control of that data. Atkinson said he recommends two drives and said backups should be done daily if possible.

C. Goebel said she was not sure about charges being proposed by Weber Printing.

Dave Blommel said Scherping Electric forgot to pay prevailing wages to their employees and needs to be paid the difference. Blommel said the invoice is 100% USDA reimbursable; however, not paying the invoice would render the previous Scherping Electric invoices un-reimbursable.

Schirmer provided the cell phone reimbursement for the Public Works Assistant.

Atkinson said he had a revelation and suggested the city look into trying to find a phone plan that can provide two lines for less than \$200 per month. Atkinson said his employees carry multiple phones and that the city should look into it. Atkinson said in the meantime, the reimbursement should be approved.

C. Goebel moved and K. Goebel seconded a motion to approve claims 1635-1675. Motion carried 5-0.

#### **Adjourn**

Worms adjourned the meeting at 8:27p.m.

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Matthew H. Worms, Mayor

---

Mason Schirmer, Clerk-Treasurer

## Mason Schmirmer

---

**From:** Joe M. Rigdon <JRigdon@kdv.com>  
**Sent:** Wednesday, November 26, 2014 2:14 PM  
**To:** 'Mason Schmirmer'  
**Subject:** RE: Freeport Engagement Letter

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Billings for 2014 look to be about \$8,000 for audit/year-end prep and other non-audit related services. The audit preparation process itself should hopefully be a bit more efficient, so I will estimate a 2015 amount of \$7,000.

Joe Rigdon, CPA  
Kern, DeWenter, Viere, Ltd.  
*KDV - Expert advice. When you need it. - sm*  
952.563.6868 Direct  
952.563.6800 Main  
877.912.7696 Toll Free  
952.563.6801 Fax  
jrigdon@kdv.com  
<http://www.kdv.com>

# Memo

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From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: November 20, 2014

Re: 204 1<sup>st</sup> Ave North

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During the Oct 28<sup>th</sup> meeting, city council was provided a copy of an email sent by the property owner requesting an extension until Nov 27<sup>th</sup>. Council agreed to the request.

## **Background**

Notice was sent to the property owner on Oct 7<sup>th</sup> with a deadline of Oct 27<sup>th</sup>. On Oct 28<sup>th</sup> city council provided a deadline extension to Nov 25<sup>th</sup>.

## **Potential Actions**

If the property is in compliance by the deadline no action will be necessary and the matter will be considered resolved; however, if the property remains out of compliance, the city could:

1. Authorize issuance of a citation for violating city code regarding maintaining a nuisance;  
OR
2. Provide another extension



## CITY OF FREEPORT

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### RESOLUTION 2014-037

#### A RESOLUTION ADOPTING THE FINAL 2015 BUDGET AND TAX LEVY

It is hereby resolved by the City of Freeport, Minnesota that:

WHEREAS; Minnesota State Statutes require that all local units of government formally adopt a final tax levy for the proceeding fiscal year on or before December 31, 2014; and

WHEREAS; The Freeport City Council and City staff have done an analysis of the demands for goods, services and other debt obligations to be provided for the City in 2015 and has attached such budget in Appendix A; and

THEREFORE; The Freeport City Council has determined that the 2015 final tax levy shall be set at \$364,500 and directs the City Clerk to notify the Stearns County Auditor of this levy amount.

General Fund Levy	\$192,000
EDA Levy	\$ 10,000
2002 Bonds Levy	\$ 12,500
2005 Bonds Levy	\$ 80,000
<u>2012 Bonds Levy</u>	<u>\$ 70,000</u>
Total Tax Levy	\$364,500

DATED THIS 16<sup>TH</sup> DAY OF DECEMBER, 2014

Motion by:

Second by:

Council members in favor:

Opposed or abstained:

\_\_\_\_\_  
Matthew Worms, Mayor

ATTEST:

\_\_\_\_\_  
Mason Schirmer, Clerk-Treasurer

Drafted by: Mason Schirmer, Clerk-Treasurer  
City of Freeport, MN, 125 Main Street East, PO Box 301, Freeport, MN 56331



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### **RESOLUTION 2014-038**

#### **A RESOLUTION APPROVING ORDINANCE 2014-006 ENTITLED “AN ORDINANCE REPEALING AND REPLACING SECTION 1405 OF THE FREEPORT CITY CODE RELATING TO BYLAWS OF FREEPORT ECONOMIC DEVELOPMENT AUTHORITY” AND PROVIDING FOR AUTHORIZING SUMMARY PUBLICATION THEREOF**

**WHEREAS**, The City Council of the City of Freeport from time to time reviews the City Code for consistency with existing conditions and state and federal law; and,

**WHEREAS**, The City Council of the City of Freeport has found Section 1405 of the City Code relating to bylaws of Freeport Economic Development Authority; and,

**WHEREAS**, The City Council of the City of Freeport has studied proposed updated language and finds the repeal and replacement of the earlier version of Section 1405 of the City Code is warranted; and,

**WHEREAS**, The City Council of the City of Freeport held a public hearing on the proposed Ordinance on December 16, 2014 following publication and posting as required under state law; and,

**WHEREAS**, The City Council of the City of Freeport has determined the publication of the title and a summary of Ordinance 2014-006, entitled ‘An Ordinance Repealing and Replacing Section 1405 Of The Freeport City Code Relating To Bylaws Of Freeport Economic Development Authority’; and,

**WHEREAS**, Pursuant to Minnesota Statutes 412.191, Subdivision 4, the Council may, by a majority vote of its members, direct that only the title of the Ordinance and a summary be published with notice that a printed copy of the Ordinance is available for inspection by any person during regular office hours at the City Offices; and,

**WHEREAS**, Prior to the publication of the title and summary, the Council has read and approved the text of the summary and determined that it clearly informs the public of the intent and effect of the Ordinance.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Freeport, Minnesota that the title and summary of Ordinance 2014-006 entitled, ‘An Ordinance Repealing And Replacing Section 1405 Of The Freeport City Code Relating To Bylaws Of Freeport Economic Development Authority’ be published with notice that a printed copy is available for inspection by any person during regular office hours at the City Offices.

**BE IT FURTHER RESOLVED:** the publication shall read as follows:

"On December 16, 2014 the City Council of the City of Freeport approved Ordinance 2014-006, entitled, ‘An Ordinance Repealing And Replacing Section 1405 Of The Freeport City Code Relating To Bylaws Of Freeport Economic Development Authority.’"

The following is a summary of Ordinance No. 2014-006, a copy of which is available in its entirety for review and/or photocopying during regular office hours at the City of Freeport, 125 Main Street East, Freeport MN.

The intent of this Ordinance is set term limits, reduce term duration, reduce the number of members, and clarify how appointments are made. This Ordinance repeals and replaces Section 1405 of the City Code. The Ordinance shall be in full force and effect from and after the date of its passage and publication of a summary of the ordinance, according to law.”

DATED THIS 16<sup>th</sup> DAY OF DECEMBER, 2014

Motion by:

Second by:

Council members in favor:

Council members opposed or abstained:

---

Matthew Worms, Mayor

ATTEST:

---

Mason Schirmer, Clerk-Treasurer





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### **ORDINANCE 2014-006**

#### **AN ORDINANCE REPEALING AND REPLACING SECTION 1405 OF THE FREEPORT CITY CODE RELATING TO BYLAWS OF FREEPORT ECONOMIC DEVELOPMENT AUTHORITY**

##### **Section I**

The City Council of the City of Freeport, Minnesota hereby ordains Section 1405 of the City Code is hereby repealed in its entirety and replaced with “Exhibit A” attached hereto and entitled ‘Section 1405 – Bylaws of Freeport Economic Development Authority.’

##### **Section II**

Effective Date. This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Freeport on the 16<sup>th</sup> day of December, 2014.

---

Matthew Worms, Mayor

ATTEST:

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Mason Schirmer, Clerk-Treasurer

## Exhibit A

### Section 1405 - Bylaws of Freeport Economic Development Authority

#### Subd. 1 - Purpose

The Freeport Economic Development Authority is a public body politic and corporate and a political subdivision of the State of Minnesota. The primary purpose of the Authority is to serve as an Economic Development Authority pursuant to Minnesota Statutes 469.090 through 469.108. Provisions of Minnesota Statutes, the Enabling Resolution (Ordinance No. 1998-5-26), any modifications, which may be adopted, and the Bylaws of the Authority shall govern the Authority. The purpose of the Authority is to promote commercial and industrial development in the City of Freeport, Stearns County, and State of Minnesota, hereinafter referred to as the "City".

#### Subd. 2 - Office and Boundaries

The principal office shall be in the City Council Chambers at 125 Main Street East in the City. The Authority may also have offices at such other locations as Members of the Authority shall determine and upon approval by the Freeport City Council. The territory in which operations of the Authority are principally to be conducted consists of the City.

#### Subd. 3 - Members

1. The management of all the affairs, property and business of the Authority shall be vested in the members of five (5) persons, with (1) Member being of the City Council.
2. Members shall be appointed for four-year terms.
3. The Members may exercise all of the powers of the Authority and do all such lawful acts and things as are required or permitted to be done pursuant to law, the Enabling Resolution or pursuant to the Bylaws, subject, however, to the approval of the City Council.
4. Meetings of the Authority shall be held at least quarterly in the principal office of the Authority in the City or at such other place as the Members may establish from time to time. A calendar of Meetings shall be set at the first meeting of the year. At least three (3) days written notice of such meetings shall be given to members.
5. Special Meetings of the Authority may be called at any time by the President or, in their absence, by the Vice-President or by two (2) Members as per Minn. Stat. §412.191 Subd.2.
6. All vacancies on the Authority shall be filled by Board appointment upon approval of the City Council. A Member selected to fill any vacancy shall hold office for the balance of the unexpired term to which appointed.
7. A quorum at all meetings of the Authority shall consist of a majority of all the Members. Less than a quorum may, however, adjourn any meeting, which may be held on a subsequent date without further notice provided a quorum is present at such deferred meeting.
8. Compensation for attending meeting and actual expense shall be set by the City Council.
9. All meetings of the Authority shall be open to the public.
10. Members shall be limited to 2 term limits

#### Subd. 4 - Officers

1. The Officers of the Authority shall be a President, Vice-President, and Secretary/Treasurer. The City Clerk/Treasurer shall serve as the Secretary/Treasurer. The other Officers shall be elected to one-year terms. They shall hold the office until their successors are elected and are qualified. The President and Vice-President, shall be Members of the Authority. The Secretary/Treasurer need not be a Member of Authority and shall be appointed by the Members.
2. The President shall preside at all meetings of the Authority and govern such meetings in accordance with Roberts Rules of Order, Revised Edition.
2. The Vice-President shall exercise the functions of the President during the absence or disability of the President.
3. The Secretary shall issue notice for all meetings of the Authority called at the request of the
4. The Secretary shall keep minutes of all meetings, shall have charge of the Authority books and shall make such reports as required by the Authority and the City Council.

5. The Treasurer shall perform all duties incident to the office, which are properly required to the Treasurer by the Authority as set forth in Minnesota Statute 469.096. Subd 4.
6. In the case of the absence or the inability to act of any Officer of the Authority, the Authority may delegate the powers or duties of such Officers to any other Officer or any Member whom it may elect.
7. The fees, if any, of all contracted agents of the Authority shall be fixed by the Members and approved by the City Council.

#### **Subd.5 - Subcommittees**

1. The Authority may appoint Subcommittees to assist in carrying out the functions of the Authority, such as Finance, Sites and Buildings, Public Information, Business and Community Contact, Community Revitalization.
2. The Authority may define the specific duties and responsibilities of each Subcommittee.

#### **Subd.6 - Attendance and Expenses**

1. Any Member who is absent from three (3) consecutive duly called meetings of the Authority shall be deemed to have resigned unless the President so notes such explanation in the records of the Authority.
2. Members and Officers shall be entitled to reimbursements for all expenses incurred in attendance at meetings and in the performance of duties on the behalf of the Authority as established in the City's Expense Policy.

#### **Subd. 7 - Finance and Administration**

1. The funds of the Authority are public funds and shall be deposited in the City's Official Depositories. All disbursements of funds shall be by check signed by the Mayor and City Clerk/ Treasurer.
2. The Authority fiscal year shall be the same as the City's fiscal year.
3. The nature, number, and qualification of the staff required by the Authority to conduct its business according to these Bylaws shall comply with Minnesota Statutes 469.097.
4. The books and records of the Authority shall be kept at the Authority office of the City.
5. The purpose of the Authority shall be limited to promoting commercial and industrial development of the City and to provide a supply of adequate, safe, and sanitary dwellings for the City.

#### **Subd. 8 - Powers**

The Authority may exercise the powers described in this Article, subject, however, to the prior approval of the City Council.

1. The Authority may exercise all of the powers contained in the Act, Minnesota Statutes Chapter 469.090 through 469.108.
2. The Authority may exercise all the powers contained in the Housing Act, Minnesota Statutes Chapter 462.
3. The Authority may exercise all of the powers of an agency contained in the Development Act, Minnesota Statutes, Chapter 472A.
4. The Authority may exercise all the powers of a redevelopment agency contained in the Industrial Bond Act, Minnesota Statutes, Chapter 474
5. The Authority may exercise all of the powers of a City contained in the Housing Finance Act, provided authorized to do so by Ordinance of the City Council to Section 462.C.o2, Subdivision 6 of the Housing Finance Act.
6. The Authority may exercise such powers of an Authority contained in Tax Increment Act, Minnesota Statutes, Chapter 472.
7. The Authority may exercise such powers of an Authority contained in Minnesota Statutes
8. 469.001 to 469.047 (Housing and Redevelopment Authority)
9. The Authority may exercise such powers as may be contained in other laws applicable to economic development authorities not specifically described herein.

#### **Subd. 9 - Limits of Power**

1. The Authority shall not exercise any powers without prior approval of the City Council.
2. All official actions of the Authority must be consistent with the adopted Comprehensive Plan of the City.

**Subd. 10 - Annual Report and Budget**

1. The Authority will have available for the City's Auditor, a summary of the preceding year's revenues and expenditures within thirty (30) days after the close of the fiscal year to allow the Auditor to proceed in a timely manner in preparing an annual fiscal report.
2. The Authority shall prepare an annual report describing its activities and providing an accurate statement of its financial condition, together with additional matters and recommendations it deems advisable for the economic development of the City. The report shall be prepared and submitted to the City by February 1st of each year.
3. The Authority shall prepare an annual budget projecting anticipated expenses and sources of revenue. The report shall be prepared and submitted to the City annually.

**Subd. 11 - Notices**

1. Whenever the provisions of the Minnesota Statutes or these Bylaws require notice to be given to a Member or Officer, such notice shall be given, in writing, by depositing the same in the U.S. Mail, postage prepaid, addressed to the address of such Member at their residence as the same appears in the records of the Authority. The time of the mailing said notice shall be deemed the time of giving such notice.
2. A waiver of any notice in writing signed by a Member, whether before or after the time stated in said waiver for holding a meeting shall be deemed equivalent to a notice required to be given to any Member.

**Subd. 12 - Staff**

1. The City, upon recommendation of the Authority, may employ an Economic Development Coordinator. The Authority may employ other technical experts and agents as it may require and determine their duties, qualifications and compensation, subject to approval of the City Council.
2. The Authority may contract for the services of consultants, agents, public accountants and other persons needed to perform its duties and exercise its power with prior City Council approval.
3. The Authority may use the services of the City Attorney or general council as determined by the Members of the City Council.

**Subd. 13 - Amendment of Bylaws**

Alterations, amendments or repeal of the Bylaws may be made by a majority vote at any meeting, if the notice of such meeting contains a statement of the proposed alteration, amendment or repeal. Notice of any alteration, amendment or repeal of the Bylaws shall be given in writing to each Member at least ten (10) days prior to the meeting at which said proposed alteration, amendment or repeal shall be considered. All amendments shall be subject to the approval of the City Council.

**Subd. 14 - Miscellaneous**

Except as authorized in Section 471.88, a Member, Officer or employee of the Authority must not acquire any financial interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall the person have any financial interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. Furthermore, members of the Authority shall comply with the City Code of Conduct.

# Memo

From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: December 11, 2014

Re: City Council Seat Vacancy

Correction: Since the seat term is less than 2 years, the city does not need to hold a special election, can appoint.

Numerous people have expressed interest in being appointed to the soon-to-be vacated council seat (being vacated by Rodney Atkinson). The term would be 2 years, until it is up for election.

~~The city is under no pressure to fill the vacant seat immediately. According to state statute, since the seats term is less than 2 years, the council could opt to not fill the seat.~~

To ensure the public is informed and the city honors the intent of the open meeting law, I recommend:

1. Posting of the vacancy in the local newspaper for 60 days; this provides potentially interested residents enough time to attend 1 or possibly 2 city council meetings before making their decision to apply for the vacancy; and
2. Asking persons interested in the vacancy, to complete an application and submit to City Hall; and
3. After 60 days, council evaluates itself to decide if the vacant seat even needs to be filled or should remain vacant. If council determines the seat shall be filled, then applications shall be reviewed and interviews conducted.

State law does not require a council vacancy to be advertised; however, it is good practice to provide some notice to the public before the council makes an appointment. This allows interested persons an opportunity to request consideration.

11/18/14

To Whom It May Concern,

We would like to extend this invitation to your municipality to contract with the Tri-County Humane Society to house the stray animals found in your jurisdiction. The contract year is from January 1<sup>st</sup> to December 31<sup>st</sup>.

Just as you own snow plows or contract with third parties to keep snow off of the roads, you should have a plan in place to keep stray animals off of the roads. Stray animals contribute to both health and safety issues your board should be aware of and ultimately address. Many insurance companies may drop coverage if they find that your area does not have animal control. If the expense is an issue, consider this an affordable alternative to the legal fees involved if an animal with rabies bites someone in your area and you had no system in place to prevent that from happening. We hope you will seriously consider contracting with Tri-County Humane Society to help you fulfill this responsibility.

If you choose to have us house the stray animals from your area, please sign and return the enclosed contract. Most municipalities have the person who found the animal bring it to us after a supervisor or township official has given authorization. Names and numbers of these officials would need to be included if this is the procedure you choose.

We hope you will consider this invitation and agree to offer this necessary public service. Please discuss the enclosed agreement at your next meeting. Feel free to call me with any questions that you may have at 320-252-0896, or if you would like me to attend one of your meetings.

Thank you for your time and consideration,

Anna Stratton  
Customer Service Manager





# Tri-County Humane Society

Adopt • Donate • Volunteer

735 8<sup>th</sup> Street NE P.O. Box 701 Phone: 320-252-0896  
St. Cloud, MN 56302-701 Fax: 320-252-1325  
www.tricountyhumanesociety.org

This agreement is between the municipality of \_\_\_\_\_ and the Tri-County Humane Society.

The following is mutually agreeing by the parties:

1. That the Tri-County Humane Society (TCHS) agrees to provide the following services:
  - a. Housing for stray or abandoned animals that are retrieved or legally seized by your municipality's community service officer (CSO) or animal control officer (ACO), or for stray animals that are brought into the shelter by a citizen and verbal permission is given by your agency via phone for intake. TCHS will receive, feed, house and care for all dogs, cats, and other domestic animals impounded from the above mentioned municipality.
  - b. Hold stray animals for a **minimum** of five working days and seized animals for up to 10 working days as per Minnesota State Statute 343.235.
  - c. Vaccinate, de-worm, and evaluate animal for medical treatment deemed necessary.
  - d. At the end of the five-day hold for stray or ten-day hold for seized animals, claim the impounded animals as property of the TCHS.
  - e. Euthanize and dispose of animals not claimed or adopted.
  - f. Handle all telephone calls that come to this office in respect to the animals in possession.
  - g. Charge any citizen claiming their animal the impoundment fee, regardless of the period of impoundment.
  - h. Publicize stray animals impounded in an attempt to locate the owner.
2. That \_\_\_\_\_ will:
  - a. Deliver or authorize delivery of all stray or seized animals within their municipality to the TCHS.
  - b. Provide a list of names and phone numbers of those who can be called for authorization. (see reverse side)
  - c. Pay the TCHS the costs per schedule accrued for the housing, care and euthanizing/disposal of impounded animals.

### SCHEDULE

- Per day: \$10.00 dog, cat or other / per cage
    - a. Seized animal held for a maximum of 10 days (\$100)
    - b. Stray animal held for a minimum of 5 days (\$50)
  - \$25.00 euthanasia and disposal fee/ per animal
- d. Notify the municipality clerk of the billing report of animals delivered, to approve charges for animals.
  - e. Refer to a veterinarian in regards to any animals that are obviously sick, injured, dangerous, or suspected of having rabies.

This agreement is effective January 1<sup>st</sup>, 2015 and may be removed or revised on a yearly basis.

Clerk of Municipality \_\_\_\_\_

Billing Address \_\_\_\_\_

Clerk Signature \_\_\_\_\_

Please list the names and phone numbers of those who can be called for authorizing an animal to come in.

Calls are most apt to be made: Mon.- Thurs. 8:00 a.m. to 6:00 p.m., Friday 8:00 a.m. to 8:00 p.m., Sat. – Sun. 8:00 a.m. to 5:00 p.m. We must be able to reach someone during these hours to authorize the stray(s) to be brought in.

NAME \_\_\_\_\_ PHONE(S) \_\_\_\_\_

NOTES \_\_\_\_\_

NAME \_\_\_\_\_ PHONE(S) \_\_\_\_\_

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