

**MINUTES
FREEPORT PLANNING BOARD
WEDNESDAY, FEBRUARY 3, 2021
6 p.m.**

This meeting was held online/virtually, using Zoom teleconferencing.

Attending: Robert Ball, Rose Mary Burwell, Aaron Cannan, Anna Child, Wayne Jortner, Chair Sam Kapala, Greg Savona and Town Planner, Caroline Pelletier.

Call to Order: Chair Kapala called the meeting to order at 6:01 p.m. and noted that the Board has a condensed agenda this evening although it is an important meeting for the Town.

ITEM I: Information Exchange

Ms. Pelletier advised that we have some upcoming vacancies on the Project Review Board so if there is anyone out there watching and is interested in serving on a Board or Committee, we are always taking applications. If not for the Project Review Board, there are other Boards and Committees that we do need volunteers for. She encouraged residents to participate. She advised that there will be a second Planning Board meeting next Wednesday, February 10 at 6 p.m. to discuss the Village Commercial Districts and changes in the downtown area to consider increasing building height, adding the use of Mixed-Use Development and essentially eliminating the land per dwelling unit requirement in the Village Commercial I.

ITEM II: Approval of the minutes from the November 4, 2020 and January 6, 2021 Planning Board meetings.

MOVED & SECONDED: To approve the Minutes from the November 4, 2020 Planning Board meeting as printed. (Cannan & Jortner) **ROLL CALL VOTE:** (6 Ayes) (1-Recused-Burwell) (0 Nays)

MOVED & SECONDED: To approve the Minutes from the January 6, 2021 Planning Board meeting as printed. (Cannan & Savona) **ROLL CALL VOTE:** (6 Ayes) (1-Recused-Child) (0 Nays)

ITEM III: **Zoning Ordinance Amendments for Solar Energy Generation Systems– PUBLIC HEARING**

This will be a public hearing to discuss proposed amendments to the Freeport Zoning Ordinance regarding the new uses and standards for Solar Energy Generation Systems. New and amended definitions to Section 104. Definitions are proposed, including adding the new uses of: Solar Energy Generation System, Accessory; Solar Farm, Small; and, Solar Farm, Large.

The use of Solar Farm, Small is proposed to be added as a permitted use, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 402. Rural Residential District I and Rural Residential District IA; Section 403. Rural Residential District II; Section 405. Medium Density Residential District II; Section 411. Commercial District III; Section 420. Local Business District; Section 421. Industrial District I; and, Section 425. Resource Protection II.

The uses of both Solar Farm, Small and Solar Farm, Large are proposed to be added as permitted uses, subject to Site Plan Review, to the following zoning district Sections of the Freeport Zoning Ordinance: Section 406. Medium Density Districts; Section 409. Commercial District I; Section 412. Commercial District IV; and, Section 422. Industrial District II.

A new Section 534: Solar Energy Generation Systems will be added. Associated amendments to Section 602: Site Plan Review are also proposed.

Note: This amendment is being brought forward by the Planning Board upon a request from the Freeport Town Council

for the Board to study solar uses back before the pandemic.

Chair Kapala advised that it has been a little while but the Board has put a lot of time into these ordinances over the years with help from our esteemed consultants and Sarah DelGizzo. Sarah is here tonight with a brief presentation to give some context to the public that is here tonight and also a brief synopsis of how we got to this point.

Mr. Savona mentioned he could not see how many people are on this call but is curious what the level of interest is tonight. Chair Kapala advised that there are 23 attendees currently and 2 phone callers. Ms. Pelletier advised that she did do extensive notification. They had over 3,000 notices that they had to send and they ran ads in the paper. She received a handful of letters in advance of the notice and got one more this afternoon which she just sent to the Board. Chair Kapala agreed that there were a number of public comments the Board received by e-mail that were in the Board's packets. He explained that we have two newer members on the Board since this topic was talked about extensively and mentioned that Mrs. Burwell and Mr. Jortner should probably recuse themselves this evening. Ms. Pelletier explained that when Board members recuse themselves on zoom, we ask them to turn off their camera and their microphone. We do ask them to stay on the meeting because someone might want to comment on another agenda item. They can listen to the conversation as a member of the public. Chair Kapala added that they can contribute as a member of the public

Sarah DelGizzo screen shared slides and advised that she is the Planner with North Star Planning and was a part of the drafting and discussion phase of this way back pre-pandemic. She is here to give background and context for the State of Maine and why we are looking at making these amendments to the Freeport Zoning Ordinance. She will also give context on the State Laws that have changed and what the landscape looks like as a whole. Since 2019 solar in Maine has become increasingly popular. There have been a lot of larger solar farm applications come into municipalities across the State. The reason for that is because in June, 2019 the Governor signed into law LD 1711 and this legislation increased the size and generation cap that was regulating how large solar facilities could be in the State of Maine. It also put ambitious goals on the State to start incorporating consumption of renewable energy so there are additional incentives for larger solar development to come in and partner with municipalities and hook into the grid to generate energy and benefit the State of Maine as well. There are three different types of solar facilities. There is what they call Behind the Meter which is basically an accessory system so generally it is smaller scale but it could be a larger scale facility that is generating energy to serve a principle use. It will be on the same lot as your home and will generate energy which will offset your home's energy consumption. It could be for a commercial site as well. The second type is what they refer to as Community Solar. This is generally one to five megawatts in size so energy production. She will get into how that relates to size based off of acreage and number of panels on the next slide. The Community Solar, she thinks of it as a co-op, so essentially a handful of people can get together and decide to develop a community solar site and then they can opt in and purchase a piece of that energy which will then credit their energy bill. Then there is what they call Grid Scale Solar which is 10 megawatts and above so these are the large-scale facilities that are feeding energy back into the grid for consumption it could be wherever. It could be the State of Maine, a system in Maine that is feeding energy back to the grid that is going down to Massachusetts, Rhode Island, etc. These are large facilities that you almost think are similar to a power plant or something like that but is purely bringing energy back to the grid.

She referred back to the piece of legislation, LD 1711 that was passed back in June 2019, and noted that before this legislation was passed, Maine had some caps as to how large and how community solar facilities could be developed in the State. There was a 9-member limit for community solar for members to try to create what she calls a Co-op type solar system where they are joining together and developing this small solar energy system and gaining those credits back to offset their personal consumption on their energy bill. This limit also put a constraint on the size. Generally, they were seeing less than one acre of solar development. A good example is Maine Idyll in Freeport. Since large facilities were not permitted in the State, there was very little guidance from the State on land use and municipal permitting. Since LD 1711 passed, a few things have changed and Maine Audubon has release guidance on solar siting and best practices as far as land use and respecting the environment as these larger facilities are coming on line. That has been a great help to municipalities and communities across the State as they are trying to figure out how to navigate these larger systems which no one had seen prior to this piece of legislation passing. LD 1711 increased the member limit for these community solar farms to 200. They also increased the cap to five megawatts capacity for community solar which

transfers roughly to 25-30 acres of solar panels. We are talking 25-30 acres in the whole footprint of these facilities including the panels, the gap running between the panels, roads and kind of the whole fenced in area. This translates to about 20,000 panels where previously we were seeing about 250-400 panels. It is interesting to note that larger facilities may be permitted in certain cases such as when there is a partnership with a municipality specifically or if the PUC contracts with a private developer. There is another piece of legislation coming down the pipeline. It is LD 1497 which addresses the PUC contracting side of things helping Maine to get to that targeted goal to renew their renewable energy consumption. Along the guidance released by Maine Audubon there is a lot of language recommending that these larger systems be sited on previously developed or impacted land. For example, it is not uncommon to see these on former gravel pits or capped landfills, etc. since that land no longer really has a good functional use.

LD 1711 has some pretty significant impacts on Maine communities. There has been a significant influx for applications for these larger community solar facilities. Implementation of land use standards and encouragement of appropriate sitings is happening across the State. A lot of municipalities are doing this. They are taking a step back looking at what their Ordinance says as far as solar and how are these systems getting permitted? Ms. Pelletier will go over the additional submission requirements we want to see when we are reviewing these projects to make sure they are being done in the appropriate way and the Town has everything they need for the life span of these facilities. There are a lot of land use considerations when siting these facilities. It needs to be in a very specific location and facing southerly so the sittings sun can hit the panels and generate energy. A lot of municipalities are concerned with the visual impacts of the system since they are large. Safety and security are another big thing making sure there is fencing, an emergency cut-off system and measures in place for safety and security. The average life span of these systems can range from 25 to 35 years and at that point the facility has reached the end of its lifespan and there needs to be a decommissioning plan in place to ensure the panels are taken down and the land is restored back to its predevelopment state. As she mentioned, we are talking specifically here about that Community sized facility. In the solar amendments to the Freeport Zoning Ordinance, they refer to the systems in two ways. They call them small solar farms and large solar farms. Both small and large solar farms according to the proposed language in the Freeport Zoning Ordinance would be considered community solar farms based off the definition based off the definition she explained at the beginning of her presentation. Most of these systems we are seeing are developed as fixed ground-mounted arrays. The primary components of this system are the panels, inverters, transformers, connections to the utility grid so underground wires and then an access road and generally a chain link fence wrapping around the entire system. She displayed an example showing that a lot of the projects she has seen come through are mounted on concrete pads only where the racking is actually driven into the ground so the entire area underneath the system is not concrete, not impervious surface. It is only small sections of concrete that are actually stabilizing the panels. She displayed examples of what these systems might look like. One of the pictures showed Maine Idyll which is 1 2/2 acres and would be classified as a small solar farm in the proposed language to the Freeport Zoning Ordinance. There is a State size cap of megawatts. When LD 1711 was first signed into law the State opened a competitive bid process for developers to essentially apply to hook into the grid with the PUC which is why there was such a huge influx at the end of 2019 and beginning of 2020. There was only so much capacity to accept projects so it was something to note. There are additional State permits that are needed for these large systems. Anything over 20 acres is going to trigger a Site Location and Development Permit and a Natural Resources Protection Act Permit which will look at the impacts on the wildlife and the natural environment and ensure this is an appropriate site for the facilities. Generally, there will be some market rate financial feasibility factors that a developer will take into consideration when they are siting these. A lot of the projects that she has seen come into Maine recently have been sited on formerly used land. It appears that developers are being particular about the type of land they are developing these on.

There will also be financial feasibility in regards to connecting into the utilities. Generally, these need to be within one mile of a 3-phase utility connection or a sub station hookup. It is expensive to upgrade the utility that connects to the grid if it isn't already existing so existing infrastructure is going to have an impact on where these are sited.

Lastly, local standards so what we are talking about tonight is going to impact exactly where these are going to go. The biggest thing with being able to hook into a 3-phase or utility connection. That is an interesting kind of limitation to note because it will be hard for developers to find good locations that have close enough access to hooking into the grid in

those locations. It can be a balance there.

Ms. Pelletier asked if the Board had any questions. Mr. Savona mentioned that the Town Council asked this Board to look at community solar because there were a couple of landowners that wanted to get together and do something. He is confused why we are talking about Community Solar versus Small or Large. He believes the Board should be talking about small versus large and it sits where it sits. His other question refers to what he recently read and that the old Drive-In was site approved in Brunswick. He is curious about what that size is compared to what we are talking about here. That might be a helpful metric. It is a cleared-out site with 3-phase power and is really an ideal site which he feels does not exist in Freeport right now that he knows of. He read a lot of the comments and everybody is concerned about greenhouse gases and emissions. He noted that you can't do that without some type of visual impact and he appreciated a lot of the comments but if we are going to do our part, we have to realize that these things are going to come and will be here to stay and we are going to see them.

Ms. DelGizzo noted that Mr. Savona is correct. Community is kind of the structure of how people are setting up the actual benefits of these systems. From a land use perspective, whether it is community solar or not, it really doesn't matter. Mr. Savona reiterated his point. This was pitched as a "hey, these people want to get together" but now we are talking about something bigger so when you put the word "community" in there it is kind of a misnomer. It doesn't accurately represent what is happening from a land use standpoint. Ms. DelGizzo noted from a State perspective, the way they define these systems, that is the way they use it. Community is one category. Behind the meter is another category and the Grid Scale is that large facility sized. We are not really talking about the Grid Scale. The small and large systems we are talking about in the proposed language is what the State defines as Community Solar. From a land use perspective, it is ground-mounted solar arrays or roof-mounted solar arrays. It is a size discussion and where a lot of the Planning Board discussion was a year plus ago. It was based on the size, what is appropriate for Freeport, the location of these things and where in Freeport should these things go if they are going to come. Mr. Savona is correct from a land use perspective, community does confuse the waters a bit but we will be discussing small and large and the structure of how these things are set up so it doesn't really matter from a land use perspective. She is not aware of the potential Brunswick project. Ms. Pelletier only knew from the headlines she read that they granted preliminary approval for a solar farm which is about 15 acres. She doesn't think it has yet been approved.

Chair Kapala recalled the Board's concern of what are these things going to look like? How will they impact living in Town? Mr. Ball added that it sounds like for the larger community-sized projects, access to 3-phase power is kind of a limiting factor. He asked where it is located in Freeport and how easy is it to upgrade the system to 3-phase which would permit more access to other areas. Ms. Pelletier screen shared a map showing where the 3-phase power exists. She noted it is typically financially not feasible for people to go beyond a mile since it adds too much to the cost. Mr. Ball feels this is a good amount of land involved. Ms. Pelletier noted it would be hard on the outskirts while it might be permissible, it might not be feasible. She doesn't know if there is an option to bring it in from other towns. It has been difficult to find where the 3-phase power is. Chair Kapala added that he has always heard it is hard to find these maps so this is good information. Mr. Ball asked who is in charge of the infrastructure to upgrade that. Chair Kapala advised that he thinks it would be CMP and the margins on solar generation are thin enough that it doesn't take much to tip the scales but if you are planning a factory that needs 3-phase for a different margin, the feasibility is different.

Chair Kapala asked for Ms. Pelletier's updates on the proposed language. Ms. Pelletier noted that she tried to use examples that we have in Freeport. Board members will see a snapshot of text language that the Board has been developing and knows some of the history that this was a request that we look at this use of community solar farms. We do have some solar in Freeport today and our Ordinance has a few references to solar but no specific uses or standards for solar farms. Most of the solar we have are roof-top panels such as at Maine Beer and residences. We have one solar farm at the Maine Idyll that was done under the old standards. The panels take up about ½ an acre and there are 9 parties involved. At the time it was looked at as a utility but current Staff does not feel like solar use falls in as a utility which is another reason we are adding some clarity. The Council has not only asked the Board to consider adding the use but to consider where it is appropriate. She displayed a picture of the solar farm that the Town is actually a party to. The first thing we are talking about is a new definition for amendments. We are talking about a definition for a solar

energy generation system that is really the solar panels themselves and the components continued. We are talking about a solar array development area which is taken up by the panels and the associated equipment. We have three solar uses. We are going to clarify Solar Energy Generation System Accessory so that would cover people that have them as part of their business or on the roof of their home and then new uses of small solar farm or large solar farm. She provided examples of Accessory Solar Energy Generation System as well as a picture provided by Maine Beer.

Ms. Pelletier mentioned the three that would be of most interest are the large, the small and solar array development area. She provided more pictures showing them. The last time the Board discussed this, it asked about the roadway. She consulted with the Town Attorney and it would exempt the driveway leading to the area. She provided a picture of a small solar farm and noted it could be roof or ground mounted. If it is ground mounted, it would have to have a solar array development area of less than 2 acres. In a similar definition, it would be between 2 and 30 acres and again those were definitions the Board talked about and felt we needed distinctions because not every sized system would be appropriate in all areas of Town but the sizing was consistent to go along with the max under the State system. She displayed a map showing most of Freeport and that is the language before the Board for consideration which would allow a small solar farm up to 2 acres. The corridor along Route One North, Route One South and out on Desert Road could be a large solar farm somewhere between 2 and 30 acres. The large or small would not be allowed down in South Freeport Village, down in the area of Byram, the Village core and Resource Protection. Accessory solar would be allowed everywhere as it is today. She received one suggestion from the Codes Officer on the language before the Board that put a definition of the large and small solar farm. In the definition we say that that they are not allowed in the Shoreland Zone because they wouldn't be permitted under the current Shoreland Zoning regulations. That is a change before the Board tonight.

She displayed a list of the zoning districts. The rural zones would allow the small. The Medium Density would allow the small. The Commercial Districts on Route One South and the C-4 which is over on Desert Road and Hunter would allow the large and small as would the Route One North area. Local Business which is on the end of Mallett would allow small. The Industrial I District which is on Lower Main Street would allow small. The I-2 on Desert Road would allow either. Resource Protection-2 would allow small and she reached out to the Maine Water Company and they were okay with that change.

Ms. Pelletier advised that we would add a whole new section to the Ordinance. These are the actual standards for solar energy generation systems. All solar uses will require permits from the Codes Officer. They would be subject to Design Review and the Freeport Village Overlay District standards as applicable. They talked about it and decided that they were not going to exempt them at this time. They added some standards to clarify when they would be accessory uses to the existing use of a property. All large and small solar farms would be subject to Site Plan Review. There will be a series of new and additional application requirements per submission. She noted some of the big ones but she has gotten some questions on de-commissioning so part of the submission would be a de-commissioning plan for the removal of the equipment at the end of its life and how the site will be stabilized. It will also require proof of financial capacity that they not only have the ability to build and maintain it but also to remove it. Large solar farms would have the additional application requirements that Ms. DelGizzo pointed out. Maine Audubon liked some of these things as well as other agencies to protect and flag any issues and they can be protected appropriately if needed.

We are going to have some new performance standards for solar farms. Ground mounted would have a height limit of 25 feet. There is a setback added in so at minimum, if you are near a solar farm, the minimum setback would be 20 feet unless you are in the RR-I District where the setbacks are greater. If the setbacks of the underlying zoning districts are greater then those would be applicable. For buffering language, if you are in a zone that is abutting a residential property, it will have to adhere to the 50/50 front and side setbacks and 75 feet in the rear. There is language to update the performance standards for landscaped front setbacks in the Commercial District. The standard language you see in the other part of the Ordinance for Stormwater, buffer, lighting, clearing and protection of natural resources. She received a couple of questions about financing and insurance. They would have to show that they can finance the entire project before work can begin and show that they can maintain insurance for the life of the project. There will be standards added for de-commissioning based on the end of the useful life. At the last meeting when the Board discussed

this, you asked for clarity on when it is considered abandoned. That language is in the version before the Board today. Also, at the last meeting, the Board talked about Performance Guarantees and the need to make sure we have these on file to cover de-commissioning but not be so strict as to get in the way of their neighborhood groups that might want to do these. Any small solar farm with a development area of one acre or greater or a large solar farm would be required to have a performance guarantee established to cover the cost of de-commissioning to make sure that they can clean it up when it reaches the end of its life and can stabilize the site. She added that she highlighted the changes before the Board. If the Board wants to talk about the letters received, we did have a comment about roof-mounted systems and something that was not clear in the language. She has some wordsmithing for the Board if it wants to consider it tonight. Chair Kapala asked her to go over that before we go into Public Hearing.

Ms. Pelletier advised that in the language before the Board, there is an amendment to the definition of height and in that by exempting the solar project, it wasn't clear if you wanted to put solar panels on an existing roof and your building is slightly higher than current zoning would allow whether or not you can still do that? She got some modification from the Town Attorney today and if the Board wants to allow panels to be roof mounted on an existing structure, there is an amendment that can be made under Section 534 under No. 2 to clarify that roof mounted accessory solar energy generation systems shall be excluded when calculating the height set forth in the applicable zoning district. Chair Kapala feels it makes sense and recalled talking about that. Mr. Ball agreed but suggested putting a reasonable cap on that. Ms. Pelletier noted that we could add a height and she and Ms. DelGizzo could wordsmith it after hearing from the public. Ms. Pelletier noted he also find one typo. The Board talked about how accessory solar for uses other than one or two-family would go to the Staff Review Board for review and approval. She did find a cross reference the Board could update as well.

Ms. Child asked Ms. DelGizzo about her presentation where she said the power was going out of state and wondered since many people see the benefit of how renewable energy being built in Freeport is energy we want to be used and accessed in Maine. Is there any way to incentivize that in some of the language the Board is considering adopting? Ms. DelGizzo advised that she has not seen in any of the municipalities she has been working in any language about anything that could be included in the Ordinance to incentivize that the energy stay in Maine. She thinks that is just something that happens with the larger facilities. It is not uncommon that it is going out of State but is not sure from our perspective we could thoroughly address. Chair Kapala added that one way to look at it but if the electricity is being generated here, there must be some benefits to having that generation capacity close by. Mr. Ball added that at the very least, it clearly has environmental benefits for the local area. Mr. Savona pointed out that it is important for people to understand how the business end of this works. It is not free power for everybody. These are investors putting a lot of money in and selling power just like the utilities do but it is greener and more efficient.

Ms. Child mentioned that it seems that Ms. DelGizzo has an understanding of how towns have worked on this. She asked about her to talk about some of the similar or dissimilar ordinances that other towns in Maine have on this. Have they been stricter or looser? Ms. DelGizzo advised that each municipality comes at this from a different perspective. Some communities do want to support renewable energy and there is a consensus across the board in the community that she worked in. A lot of people are hesitant in some communities about the visual impact of these systems which she feels is a valid challenge when talking about these larger systems. She feels the language being proposed tonight is pretty standard with what she has seen as far as the size cap in talking about accessory to small solar farm to large solar farm and in addition to that the submission requirements added to the Site Plan requirements that are already in the Ordinance are pretty standard across the board as well. It is difficult to say that this is on the stricter side and the more liberal side because it really varies from town to town and what their concerns are. She thinks the key is location-wise and when we get down to the level of zoning districts and where the community will be okay seeing them. Communities have varying perspectives on how much they want to embrace the renewable energies in their community. There are other benefits even if the energy is going out of state. There are tax revenue benefits to these systems being in your community specifically.

MOVED AND SECONDED: To open the Public Hearing. (Savona & Child) **ROLL CALL VOTE:**
(5 Ayes) (2 Excused-Burwell & Jortner) (0 Nays)

Chair Kapala explained how the public could participate this evening.

Mr. Jortner (as a member of the public) wanted to clarify that our grid is managed by an independent system operator called ISO located in Holyoke, Massachusetts. They manage the New England grid and dispatch which generators are operating at any given time. Solar has its order in that hierarchy but you can't control where electrons go so any facility that feeds the grid in front of the meter or behind the meter, is feeding the grid and the electrons go wherever the physics tell them to go. There is no way to know if they are going out of state or staying in state. It is all a big mix within the grid so energy produced in one place might be displaced by energy produced in another place. We can't say we are keeping it in Maine. Chair Kapala added that there are all kinds of benefits. There are transmission losses that are avoided by having power. The point is that the money is coming from out of state for some of these projects and, therefore, the profits are going back out of state.

Christopher Roney from Old Brunswick Road thanked the Board for its hard work and service in reviewing this. He explained that he is a solar proponent in general and is fine with the concept of small solar farms anywhere in Freeport, including his backyard. He is a little concerned with large solar farms in the Medium Density Zone which is largely residential. He finds it troublesome when the jump from a small solar farm which could be 2 acres to a large solar farm could be like 30 acres. It is something like the difference of having a Maine Idyll and having a Walmart Distribution Center in your backyard. He feels it is significant. He asked if the Medium Density Zone could be excluded from the large solar farm approach or secondly if the Board could consider something middle of the road like a medium sized solar farm which isn't quite 30 acres allowed in that zone?

Joyce Veilleux mentioned that she has questions about wording and offered to reference it by page number if that works. On page 224, Section 434 C. 2. Application Requirements. It states that all this stuff is required unless waived by the Project Board. She feels it should never be waived. All information A through I should be required by all applicants and the Board should not have that capability of waiving.

Page 228 – she knows that solar is coming but personally she does not like the visual. She feels we can reduce some of the visual on the road side. Instead of saying a stand of trees, trees in general will be too large and will block some of the solar capabilities there. If you were to say something like “putting in a double row of cedar trees on the roadside, that would block the visual all the way to the ground where tree branches could be 10-15 feet high and they don't get large enough that they won't block the sun from the panels.

Under safety, Sarah talked about emergency cut-offs but Ms. Veilleux does not see anything in our safety standards about having some kind of signage that it would be accessible for people that needed to get to, if they needed to.

Under fencing, there is talk about having it 5 inches off the ground. She thanked Caroline and Sarah because she likes the critters but she didn't see anywhere where it said how high. She asked if she could put a 5-inch fence 5 inches off the ground and call it good? Does it have to be a 5-foot fence or a 6-foot fence?

She clarified that all the solar projects would go to the Project Review Board and not Staff review? Ms. Pelletier noted that accessory solar could go to Staff Review but all solar farms have to go to Project Review.

Mrs. Veilleux did not see anything that requires underground wiring. She asked if it is covered in a different ordinance? Can we do that? It also would cut down on the visual.

Mrs. Veilleux would love to see some kind of wording that puts a limit on the number of farms on a single property. Somebody like Mitchell Farm couldn't put five large farms on their property if they met all the requirements. She feels it would also be nice to see a limit on the number of large solar farms allowed in Freeport as a whole so we don't have to be concerned about being overrun by 30-acre solar farms. Chair Kapala thanked her for her comments.

Sharon Young pointed out that Sarah mentioned the tax revenue benefits to a municipality. She asked for more information on this. How is this taxed? Is it the highest and best use as far revenue generation for that land? Do we know what rate we will assess per parcel? Ms. Pelletier mentioned she spoke to our Tax Assessor today. He said in cases where people have accessory solar, there is usually exemptions under the State so it won't necessarily increase by people putting solar panels on their homes or accessory to their businesses. He did say it is not straight forward when it comes to solar farms. We don't have any that contribute to give us a sample of value in the impact. Here are different exemptions under State Law so it is hard for him to provide an answer to that question at this time. Mr. Joseph added that just on the home accessory-type uses is that they haven't been demonstrated to drive up the assessment or the sale price of residential or small-scale commercial properties. People who put panels on their homes generally do not see a huge tax increase from the town similar to small-scale accessory uses on commercial buildings because they are not demonstrated to drive up the cost and it is too complicated to boil down commercial assessment on an actual functioning solar farm utility in that respect. Chair Kapala noted it sounds like the tax implications are not clear at this point. The chances of Freeport being home to many 30-acre solar developments are zero. We have high land values here and there are many other uses for that land. If the Board can provide some regulations and framework within which to develop some solar, that is great but he feels we will not see lots of huge solar farms here. The Board is trying to keep all the possibilities in mind as it plans for it.

Charles Erdman explained that he lives off of Pine Street and has attended some energy conferences and it is important that we think as a community of energy production in our community of how to start to anticipate where energy is moving. The industry is moving very quickly as it pertains to something called prosumer (producers and consumers) and we have the ability within our community talking about solar farms to be both a producer of energy and use that energy locally. Wayne and Sam were talking about this and as he said that prosumer kind of environment where you could start metering the production and then exchange that locally. The tools and technology are coming on strong. There is a project in Brooklyn where a community has been producing in a neighborhood in Brooklyn and exchanging and selling power back and forth to the neighbors. He is giving the Board a sense as it is writing these codes and developing a policy on this, to anticipate a change in the market place that will enable the kind of vision he was talking about.

Sarah Tracy noted that she read the Ordinance and is comforted by the level of detail in it and the thoughtfulness the Board approached this issue. She is also comforted by the allocation of small versus large but Chris' comments should certainly be considered. She is in the energy industry and agrees with all the discussion earlier about the limitations on the development of solar as it pertains to Freeport and respect to access to 3-phase power. She has seen a lot of development in the last three years where costs of equipment have gone down significantly. It obviously gives room for more cash to make more upgrades so she agrees with the current state of affairs. If there is not easy access to 3-phase power, it is probably a limiter. We know that this Ordinance will be in place for a while and we also know Ordinances take a long time to change so she thinks the Board should assume that that might change over time. As the Board is considering where things are, she cautioned to keep that in mind because it may not be a limiter later as it is right now. She especially liked Joyce's comments about buffering with respect to the road and it should be taken into account. She lives in District 2 that has a lot of open space, assuming they can get access to power, is prime and it would change the character of the neighborhood even though she is pro-solar. She feels it is good as long as it is properly placed and not having too many projects in one neighborhood.

Dale Inman advised that he has not read the Ordinances. He doesn't know if there are guidelines or requirements that after the solar array is in place, how they will maintain the property. In particular he is concerned about if they will use sprays to keep the vegetation down. He doesn't think that would be a good thing for the town. He doesn't know if it is in the Ordinance but would like the Board to consider that. Chair Kapala was not sure but feels there are other folks able to speak better to the ability of an Ordinance like this to regulate something like that. He feels it is definitely worth considering as are all the comments we have heard tonight.

MOVED AND SECONDED: To close the public hearing. (Ball & Cannan) **ROLL CALL**
VOTE: (5 Ayes) (2 Excused-Burwell & Jortner) (0 Nays)

Chair Kapala thanked everyone for their comments and being part of this process. He suggested starting with the last comment while it is fresh in our minds.

Ms. Pelletier advised that there is a clause in the proposed amendments covering this. The number on the bottom says 228 under Performance Standards for Large and Small Solar under B. 4. She read it into the public record. She added that there is something in one of the codes that requires these solar operators to submit a vegetation maintenance plan if they are seeking approval for these. Ms. DelGizzo advised that every application that she has reviewed has been required to submit a maintenance operations plan. Generally, the maintenance she has seen is very minimal once the solar farm is installed and operational. It consists of mowing at a minimum two times a year and every single application she has seen has included language of using on air friendly wildflower seed mixes and not using pesticides specifically.

Chair Kapala asked if the Board could say, "shall not use pesticides to clear the vegetation?" Ms. Pelletier did not know if the Board could cross reference to our municipal policy on this. Mr. Joseph mentioned that he did not think it is binding in anyway that the Board could use. It is just for management of Town-owned parks, playing fields and things like that. It does provide a waiver possibility in there but it limits to organic fertilizers and pest management products unless there is a demonstrated need for non-organics. We have waived it before when there were grub infestations in the soccer fields but it took discussions. It was discussed with the Fields Committee whether they wanted the kids to be rolling around in the synthetic pesticides and said okay, we will do this application only to try to minimize contact with players and things like that. He doesn't think here is anything binding that could be utilized by the Board but there may be some language there that could be lifted. That is counting on a government body, meaning the Council or him to waive individual requests to use pesticides so it might not be practical because it isn't like they will be coming back to the Project Review Board on a bi-yearly basis asking for permission to apply pesticides. It would be awkward and he doesn't know how the Board would accomplish that. Ms. Pelletier added that Mr. Joseph is right. We wouldn't have an applicant come back just for a pesticide. Maybe we could tweak the language so that they submit a detailed plan explaining what situation would trigger them using such a product. Chair Kapala mentioned that a pest would be the friend of a solar operator and a plant would be the enemy so we are talking herbicide and he could see the worst thing from an environmental perspective would be somebody saying mowing is expensive and I'm going to spray Round-up around this whole thing. That is what we don't want and he asked how could the Board enforce this? Would we put it in this Ordinance and say herbicides shall not be used for vegetation maintenance? Mr. Joseph advised that cities have done it in Maine such as South Portland but he hasn't seen any cases or enforcement on it. He questions how to enforce that. Chair Kapala asked if there is harm or legal red flags that would come up if we tweaked the language and said, we prohibit herbicides in vegetation maintenance? Mr. Joseph advised that if there was a case where vegetation couldn't be controlled by mechanical means such as mowing, the Board would be opening itself to somebody that damaged the farm making the claim that the Town prohibited them from protecting their property with that Ordinance. He did not have a good answer to give the Board right now. Those cases would be pretty extreme but they could happen.

Mr. Ball asked if this occurred with the utility corridors when they were doing some spraying and it somehow got rectified? Mr. Joseph did not know how it was dealt with and they are regulated in different ways. Ms. Pelletier mentioned that she could get legal guidance if the Board wants to take that approach. She feels we want to do it the right way to protect all parties. She knows there are some maintenance requirements in the code so we might want to cross reference and reach out to the Codes Officer. We don't want to make anything that conflicts. She can flag it if the Board wants to revisit it.

Chair Kapala noted the Board got some good comments tonight and has some leeway to change things tonight and still recommend that the Ordinance be put in front of the Council. Mr. Savona feels the Board is talking about minor details in a pretty big concept of what we are going to allow from a land use standpoint. Chair Kapala feels the buffering comment is a good one. The biggest one is the 30 acres. He hears concerns that 30 acres is huge and it would be a big development and he doesn't think there is anyway around that but there are positives too.

Mr. Joseph advised that if the Board is going to make a recommendation on this tonight but has reservations, you can

ask Ms. Pelletier to pass that along. He is here listening to the meeting and can communicate that to the Town Council when it comes to the Council and maybe do some additional legal research. He is sympathetic to the request. It makes good sense that we can to an extent possible, limit Round-Up use or any similar herbicide use since they do not do good things for the environment, especially to abutting properties. If the Board has concerns and wants him to look further, he would be happy to work with Ms. Pelletier. The Council can also make amendments to this after the Board recommends it. Chair Kapala noted that this Board has spent a good deal of time getting to this point. The public comments were good but we are not the last stop. He wants to be respectful of the process and respectful of the time and resources of this Board.

Ms. Child mentioned after hearing about the new technology, she feels it would be interesting for the Town Council to hear about that. Chair Kapala agreed.

Daniel Freund asked if it would be possible for Freeport to consider locating solar panels and that the Ordinance be amended so that there would be strong encouragement to cover surface parking over a certain dimension, be required rather than using good arable land and going to the expense of essentially creating a rooftop if one were to cover the open parking areas that are abundant in downtown Freeport and subsequently, when people build buildings and have parking, any surface parking over a certain size, it makes good sense because the cars are protected from snow and sun and you actually create electricity to run the car that is sitting right there. Another possibility and he realizes that this is a complication that would involve many other legal jurisdictions. It has been done in other countries and it makes good sense. If you look at the land mass of the highway that passes through Freeport and you simply built the solar panels in the median strip which is nothing beautiful to look at anyway, that is basically unused land and we also have a buffer. Why aren't we building solar panels in these right-of-ways where the power company is already taking good land and doing nothing with it but spraying herbicides on it? There are a variety of places where land is not being used to its maximum such as the right-of-way by the railroad, the right-of-way by highways and the median strip in the highways. If one were to contemplate this and look at the total land mass we are talking about, a lot of the land mass that you are considering covering with solar panels would be accomplished by using these other areas where the land is not being used now. That is his suggestion. Chair Kapala feels that is a great idea and a good use of that land but it is not really the jurisdiction of the Planning Board to recommend those kinds of changes. The parking lot issue is where the Planning Board does have jurisdiction. The Board has been talking about parking lot redevelopment for a while but not with an eye towards solar panels but he thinks that is a good idea and is something the Board could look at with a future Ordinance that maybe relates back to this one.

Abigail Gray advised that she has been thinking about the commercial space along Route One and downtown and using that for installing solar panels first before we look at developing land. We keep talking about going forward and reviewing the Comprehensive Plan and this comment that just happened ties into the need for us to move forward with the Comprehensive Plan. That is how she feels about this proposal in general if we had more of an updated plan in response to what we just went through with the L.L. Bean land. We could say things like the new bridge, in Korea they have a bike path and cover it with solar panels. It protects pedestrians, bikers and also generates energy. She feels there are a lot of proposals coming along and we might not have answers until we update the Comprehensive Plan.

Chair Kapala mentioned that we have talked about the need to update the Comprehensive Plan and we all appreciate that but we want to do it in parallel with these other things. It feels there is trepidation about having too much land in Freeport involved in solar panels which he thinks is understandable. He and Ms. Pelletier have talked about a large commercial building that wants to use its own roof for an accessory use. Ms. Pelletier explained that if you have three acres of roof, you can use your roof for your own benefit if it is accessory like Maine Beer does serving its own need. There could be cases where you have a building with a parking lot and you wanted to cover your parking with solar panels as an accessory, you could do that. Her understanding is that the solar panels that cover parking are pretty pricey and that is the reason right now we have not seen a lot of them but technology and cost changes. Both of those things she could see as accessory. There are quite a few places in Freeport that have panels on their roof. They are there but we just don't see them. Chair Kapala noted there are good financial incentives if you have a big roof. He asked if the Board is ready to recommend this to Council with some of these issues flagged for Council attention.

Mr. Savona advised that he has worked on this for a long time. He feels it is important. The Board spent a lot of time on wind but that has proven to not be the way to go. Solar is probably the best alternative energy source we have that we can contribute as a community if we are truly interested in not being net neutral but being as close as we can. The idea would be to generate as much, even though they are private investors selling back to the grid for their own profit, but generating energy that is then somehow used through good use by the Town. We have to be able to make some sacrifices on what we are willing to live with. He hears a lot of well, they built it in some town over there, but he thinks there are some areas that might be good for this and there are some areas much better suited for residential development or other things where people are concerned about them going. He doesn't think the way the grid is right now, that they are conducive to that but what we have come up with is a pretty good template for some select areas where the infrastructure is already there to put something in if somebody comes along and it makes sense. A lot of the details we have worked out makes it as amenable as possible and he thinks this is a good proposal.

Mr. Ball agrees with Mr. Savona. The Board has put a lot of work into this and it helps listening to Ms. DelGizzo 's discussion and how this proposal relates to other communities. It sounds like it is a pretty reasonable, well thought out proposal. He thinks the Board should move forward.

Ms. Child echoed those sentiments. She has been on the Board for two years and feels this has been well thought out. Chair Kapala agreed and noted it is a proposal with compromises. It is in the existing Comprehensive Plan and his hope is that it will be in the next one that the Town should have some sustainability goals in mind.

Mr. Cannan agreed and he is in favor of advancing this to the Council. He got comfort hearing Mr. Joseph say that they can flag some things in a discussion at the next venue. He keeps coming back to the de-commissioning costs of these facilities and our requirements that there be some surety in place to cover that. He asked if this is something common? It seems like a burdensome cost for these facilities. Ms. DelGizzo advised that it is common even to the point where she has reviewed solar applications in communities that don't have specific solar ordinances or language regarding solar farms in their Zoning Ordinance and developers are prepared and ready to provide performance guarantees. It is common and something developers expect in this industry. Mr. Cannan feels that 30 acres is as big as the Board wants to see now but is it what the Town wants to see? That is a clear flag to him. Chair Kapala would agree with that. Mr. Ball agrees and added that pesticides is something worth looking into. Chair Kapala feels the biggest thing for him is legal exposure and that is something the Council is better equipped to deal with that. Mr. Savona piped in and advised he would welcome some feedback from them. Chair Kapala feels that sustainability is the obvious angle in finding that this proposal is consistent with the Comprehensive Plan.

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board approve with amendments and recommend that the Freeport Town Council adopt proposed amendments to the Freeport Zoning Ordinance pertaining to Solar Energy Generation Systems, as presented, discussed and amended at the February 3, 2021 Planning Board meeting and the topic was considered by the Planning Board at the request of the Freeport Town Council and the Board finds that the proposal is in harmony with the 2011 Town of Freeport Comprehensive Plan in that it would promote sustainability. (Cannan & Savona)

Ms. Pelletier wanted to clarify the amendments before the Board votes to make sure she has them correct. To the definition of large and small solar farms it adding to the language that they would not be permitted in the Shoreland Zone. It is correcting the reference in Section 534 so that the Accessory use of solar panels go to Staff Review. The other ones are going to Project Review. At the recommendation of the Town Attorney, amending the language for height so that the accessory roof-mounted solar panels don't count towards the height of the structure.

Chair Kapala noted this is not an amendment but suggested that the comment about removing the waiver from the Project Review Board is a good comment. Ms. Pelletier asked the Board if it wanted to strike the waiver or does it want the Council to talk about that? She feels it is standard language that we see through our ordinances. She does not have a

problem one way or the other. If we want to require it, let's require it. If we see it is used and we find there is an issue, we can revisit our standards and bring an amendment forward. Ms. DeGizzo recalled that the Project Review Board could waive certain submission requirements and agrees that it is pretty standard that Project Review Boards could waive certain submission requirements. She does not see any harm in leaving it in there but also does not see any harm in taking it out and making it standard across the board. The only thing she would consider leaving it in is for some of these smaller groups of neighbors wanting to get together and develop a community small system. Some of the submission requirements might not be as necessary to supply versus a 20-acre larger system. She feels it would be okay either way.

Chair Kapala noted it is not like the whole project skates by. Ms. Pelletier added that it is something as written and is not something Staff can waive. The Project Review Board would have to waive it and they would have to have seven people weigh in. Chair Kapala noted that that was his own derail there.

ROLL CALL VOTE: (5 Ayes) (2 Excused-Burwell and Jortner) (0 Nays)

Ms. Pelletier wanted more clarity so she could have flags for the Council. The Board's recommendation is proposed but based on comments, they might want to take a look at the 30 acres and make sure it is right for Freeport. The Board wants them to take another look at strengthening the pesticide/herbicide requirement and the legality there. See if they want to consider a stronger buffering requirement along the front setbacks.

ITEM IV: Persons wishing to address the Board on non-agenda items. There were none.

ITEM V: Adjourn.

MOVED AND SECONDED: To adjourn at 8:01 p.m. (Cannan & Savona) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Recorded by Sharon Coffin