

**CEREMONY FOR CITIZEN OF THE YEAR**  
**6:00 pm Town Council Chambers**

**AGENDA**  
**FREEPORT TOWN COUNCIL MEETING #06-23**  
**TOWN COUNCIL CHAMBERS, 30 MAIN STREET, FREEPORT**  
**TUESDAY, MARCH 21, 2023**  
**Immediately following ceremony at 6:15 PM**

The Chair called the meeting to order at 6:30 pm

	PRESENT	ABSENT	EXCUSED
Councilor Chair Daniel Piltch, 25 Quarry Lane	X		
Council Vice Chair, John Egan, 38 Curtis Road	X		
Councilor Matthew Pillsbury, 36 Todd Brook Rd	X		
Councilor Chip Lawrence, 93 Hunter Road	X		
Councilor Darrel Fournier, 3 Fournier Drive	X		
Councilor Jake Daniele, 264 Pownal Road	X		
Councilor Edward Bradley, 242 Flying Point Road	X		

**FIRST ORDER OF BUSINESS:** Pledge of Allegiance

Everyone stood for the Pledge of Allegiance.

\*\*The recording secretary is recording from home following surgery.

**SECOND ORDER OF BUSINESS:** To waive the reading of the minutes of Meeting #05-23 held on March 7, 2023 and to accept the minutes as printed.

**MOVED AND SECONDED:** To waive the reading of the minutes of Meeting # 05-23 held on March 7, 2023 and to accept the minutes as written. **VOTE:** (Lawrence & Daniele(5-Ayes)(0-Nays)(2-Abstain -Egan & Bradley )

**THIRD ORDER OF BUSINESS:** Announcements (15 minutes)

- Freeport Community Library has a terrific lineup of programs in March and April, so please make sure you follow us on Facebook or head to our website and sign up for our monthly newsletter.
- Freeport has started working on a Climate Action Plan. To learn more about the project or to sign up for project updates, visit the project website at [www.freeportclimateaction.org](http://www.freeportclimateaction.org)
- The Town of Freeport is always seeking volunteers for all municipal Boards and Committees.

## COUNCIL MEETING #06-23

MARCH 21, 2023

- 2nd Annual FreeportCAN Climate Action Forum - March 28, 2023 @ 6:30 pm  
At Meetinghouse Arts, 40 Main St., Freeport

Hear from local, state and international guest speakers about current efforts to address the climate crisis. Learn about the impact FreeportCAN has had in its first year helping our community find ways to act to address climate change. We're excited to continue our work as we move forward, and we hope you'll join us!

### Guest Speakers:

- Freeport Sustainability Advisory Board
- Governor's Office of Policy Innovation
- International Climate and Policy Specialist

### **FOURTH ORDER OF BUSINESS:** Information Exchange (15 minutes)

Councilor Pillsbury: reminder, if you want to attend the Wabanaki Reach Programming that is being put on through the efforts of the Freeport Historical Society. There are two sessions the first week of April that start at 5 pm and he can get more information if any Councilors would like to attend.

The Library has been going through a process to look at Capital Planning and best utilization of the space at the Library. There will be more information to come and more public engagement around the process. They are trying to create a vision that meets the needs of both the youth population and the adult work from home group within the existing footprint of the building without necessarily saying they need to expand.

Councilor Egan: The Housing Committee is gathering statistics and data to provide to the Council in early April. There will be a presentation of date and profile information as well as a short list of recommendations that the Council can take action on to promote more housing developments in our community and some long term projects that are already underway. He also got a chance to participate in the last two Project Review meetings related to a housing project and got a first hand look at the process. He is pleased the project at 22 Main Street was approved.

The Freeport High School Drama team has put together a one act play to compete in the State Competition. They won the regional competition held a week ago. They are going to State's this weekend. He saw the show and it's great. The State competition is in Ellsworth Friday and Saturday.

### **FIFTH ORDER OF BUSINESS:** Town Manager's Report (15 minutes)

We have put out the search consultant RFP for the Manager's position. They envision a public process. It will be up to the Council to decide when they interview. They are seeking people who are doing significant recruitments across the country through professional associations and also emailing it, not just putting it on a website, but advertising it to people doing searches.

He and the Finance Director have been working on the budget. They are through most of the significant budget items that are coming before the Council. There are a few things they are bringing in front of the Council, prior to budget being submitted at the end of April. They have some items for feedback before the budget is finalized.

COUNCIL MEETING #06-23  
MARCH 21, 2023

They have been working with staff and the Council to get the download on projects going on and to assign them so there is no gaps. We'll have 20-25 either pending or future projects in the next six months that will be assigned out to the appropriate department.

**SIXTH ORDER OF BUSINESS:** Public Comment Period – (30 Minutes)  
(Non-Agenda Items Only)

Andy Arsenault: Has his perpetual question which is Cemetery Trust Funds. He asked in May. Tawni Whitney asked the Manager for a list of investments in the performance of the same involving the Cemetery Trust and Perpetual Maintenance funds, who is handling the accounts and who picks the investments and where are they invested, i.e. who is our broker. He got a list that included the Perpetual Care Funds and how much was in them, not the investments or what the performance was. Last year, he got a letter from Jessica stating if we handed out any more money, we would run out of money. You have a fiduciary responsibility. We've entrusted the town with perpetual care money. It's really not for social ideas, whatever we think is a good idea this week. It's to gain the most investment for what we need to do with our perpetual care money. He's discouraged. He heard that 1.6 was our return on investments. That's a poor return. We need to get some answers on where the money is, what's it's invested in and why it's not performing better and who's fault is it. He's the treasurer for small Flying Point Cemetery. It's the poorest in town and they need to mow the lawn. He keeps asking the questions and he can't get answers. He'd hope this year we would look at all our investments closer and why we are getting such a bad return.

Councilor Piltch will follow up with him on that. He's seen the accounts and is happy to chat with him about policies and returns. It was pointed out that it was reviewed last year by a subcommittee here. They did take a deep dive and interviewed Bangor Savings Bank which is the wealth management firm. They invested according to the policy the Council directed them to which was fairly conservative intentionally. They will share the presentation from Bangor Savings Bank.

**SEVENTH ORDER OF BUSINESS:** To take action on the following items of business as read by the Council Chairperson:

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ITEM # 43-23                      To consider action relative to adopting the March 21, 2023 Consent Agenda.

**BE IT ORDERED:** That the March 21, 2023 Consent Agenda be adopted.

**MOVED AND SECONDED:** (Piltch & Lawrence) To adopt the March 21, 2023 Consent Agenda be adopted. **VOTE:**(7-Ayes)(0-Nays)

(Council Chair Piltch) (5 minutes)

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ITEM # 44-23                      To consider action relative to setting a Public Hearing to discuss amendments to Chapter 2 Administrative Code, Section 509 to adopt Stretch Energy Codes effective July 1, 2023.

This would be adopting the 2021 Energy Code which is ahead of schedule and permitted by MUBEC (Maine Uniform Building and Energy Code). We can go ahead of schedule on the energy codes if we want to require more energy efficient construction within the town. The proposal that they have been

COUNCIL MEETING #06-23  
MARCH 21, 2023

asked to put before the Council is to adopt the current Stretch Codes which are last year's energy codes effective July 1. There would be a gap between adoption and when they go into effect.

Councilor Daniele asked if other towns around us have done this. It has been adopted in other municipalities, but the Manager will research and let them know.

Councilor Egan pointed out that it's puzzling that we call it a Stretch Code when it's two years old. The 2015 Code is the one we are operating under today, that's eight years ago. He's sensitive that they may be perceived as pushing something that's extraordinary and cutting edge and it's already 2 years old. We are asking for a Public Hearing to adopt the 2021 MUBEC as it was convened and approved by that body two years ago.

**BE IT ORDERED:** That a Public Hearing be set for April 4, 2023 at the Council meeting starting at 6 pm at Town Hall, 30 Main Street to discuss amendments to Chapter 2 Administrative Code, Section 509 to adopt Stretch Energy Codes effective July 1, 2023. **MOVED AND SECONDED:** (Egan & Lawrence) **VOTE:** (7-Ayes)(0-Nays)

(Town Manager, Peter Joseph)(10 minutes)

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ITEM # 45-23                      To consider action relative to reapproving a Use of Town Property request.

This is for the morning festivities on the Fourth of July. The race has always kicked off from Memorial Park on Bow Street.

Councilor Fournier: We've done this for 35 years, is there a way we could give permission that could be for a 5-10 year period to save time. This is the town's internal requirement that public buildings be approved for reserved use so you have complete control over that process so if that's something the Council wants to do, they have the authority to do that. Can we give it to administrative staff. He thinks this is one of the items we could look at efficiencies and improve down the road. The Manager thinks it's doable with a one or two sentence motion to approve multi-year. Let's not do it tonight but it is doable.

**BE IT ORDERED:** That a request from L.L.Bean Inc. to use Memorial Park on the 4<sup>th</sup> of July be approved. **MOVED AND SECONDED:** (Pillsbury & Lawrence) **VOTE:** (7-Ayes)(0-Nays)

(Town Manager, Peter Joseph)( 5 minutes)

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ITEM # 46-23                      To consider action relative to reapproving Parklets.

This is reapproving a Parklet on Main Street in between Derosiers and Sherman's Book Store. There are two parking spaces in the loading zone that gets taken up and turned into an 8 foot wide seating area with 3-4 tables and chairs. This is heavily used in the summer. We've tried other locations that were less successful. This is a temporary consideration until Main Street is redesigned. There's been a lot of talk about what the street scape looks like on Main Street in the future and if it will include features like this that are hard built into the actual curbing and sidewalk so it's not done with Jersey barriers and makeshift platforms. In the next 4-5 years there will be opportunities to build features like this into Main Street permanently. Until then this lets us safely put seating next to traffic without much risk. The adjacent business owner has kept it clean and will furnish with furniture (some purchased and some from the parklet from last year). He's asking that it be approved before he buys any additional furniture.

COUNCIL MEETING #06-23  
MARCH 21, 2023

This gives general use to anyone in the town to use this area. It's not for one dedicated use. Public Works sets up and takes down the barriers. It takes them about an hour to set up.

Councilor Daniele: Do we also have to reapprove other businesses putting tables out on the sidewalks? We changed that to make it easier. Do they need annual approval. The Town Planner explained we do have a newer provision that makes it easier for businesses to add outdoor seating on their own property. If you are talking about some that the Council granted in the past on public property, we would want to go back and double check and see how you did that approval. One location up the street, she's doesn't know if it was for one year ongoing, we can look at it and reach out to them. The Met is what everyone is thinking about. That was public so it wouldn't really come under site plan provisions.

Councilor Fournier stated that the parklet on Bow Street did not have high usage. He questions the amount of effort we put in there. That business has not put in a request for that to return. It didn't warrant taking away the parking. Councilor Daniele would like us to investigate the outdoor seating and report next meeting. Bow Street had outdoor seating on the sidewalk that was moderately successful. Might be good to contact them and ask if they want tables on the sidewalk again. Could we offer that to other businesses. Come in and inform and get approval from town staff of wishes to have sidewalk seating. That would be cool thing to try for the summer.

**BE IT ORDERED:** That the Parklet at 120-124 Main Street be approved for a period ending October 31, 2023, with the same configuration as 2021 and 2022.  
**MOVED AND SECONDED:** (Fournier & Lawrence) **VOTE:** (7-Ayes)(0-Nays)

(Town Manager, Peter Joseph)(5 minutes)

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ITEM # 47-23                      To consider action relative to the appointment of an Interim Town Manager

Our manager is leaving us in two weeks' time. We are fortunate that he is leaving behind a fabulous staff. We had a lot of good options and it was easy to come up with a handful of names quickly. Where we landed as a Council is that we asked a team of people to step up and do the duties Peter has done. We are going to name Caroline Pelletier to step up and be the interim Town Manager until a permanent replacement can be found. She will be assisted by Jessica Maloy and Judy Hawley who have agreed to share in some of the duties. She will take over his salary as well.

**BE IT ORDERED:** That Caroline Pelletier be appointed as Interim Town Manager, effective April 6, 2023, running until a permanent replacement has been named. **MOVED AND SECONDED:** (Piltch & Lawrence) **VOTE:** (7-Ayes)(0-Nays)

(Chair Piltch)(15 minutes)

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**OTHER BUSINESS:**

1. Discussion of Consent Agreement request for 28 Cunningham (Town Manager)(15 minutes)

We have representative here for both properties. The items in the packet were reviewed. There is an extensive notice of violation on the property. The current owners inherited this and did none of the work

COUNCIL MEETING #06-23  
MARCH 21, 2023

in question. They bought the violation. They are seeking to fix the problem. Most of the violations quoted are mostly addressable through permitting. There is a wharf that has been removed but can be addressed through permitting to allow it to return in some form. There was an expansion of the structure that the town believes was done without permits although there is a question how much was done without the permits. It would not have been permissible at the time it was done, but under the current land use ordinance the expansion of the structure into the Shoreland zone is permissible as it has been constructed. They can get after the fact permits. There may be little details that need to be cleared with electricians, plumbers etc. that would need permits. The part that is not addressable between himself, the town's attorney and Code Officer that would remain permanently, are the small portion of the deck, patio and walkway in the back of the house that is adjacent to the water that would be a Shoreland Zoning violation. There is going to be multiple things in this consent agreement. They are asking for conceptual agreement from the council that we move forward with the attorneys to draft a consent agreement. If the Council is not in agreement we wouldn't go that route. They do have the right to, for example, appeal to the Zoning Board the notice of violation or they can take other measures allowed under law. They are trying to do it by agreement with the Town. They are asking deck, patio and walkway to remain within the primary shoreland setback. That would need a consent agreement from the Council. That would be the Council essentially saying we are allowing it to stay. It was never sighted by previous Town employees and was not caused by the current owner. All the other is addressable as after the fact permits. In order for the permits to be issued, there would have to be a consent for this part to remain permanently before the Code Officer can go through with after the fact permits.

Attorney John Belisle: The owners bought in 2019. They came to town hall and looked for permits. They had the intention early on of updating the property. It was a renovated camp updated in the 90's. There is no record of those permits. They had done reasonable due diligence when they purchased it and were unaware of citations when they applied for permits last year. They are asking the Notice Of Violation (N.O.V) not be enforced on those issues. They have since then applied for a permit through DEP for the pier and the wharf. They have hired contractors to inspect the property so they can get permits for the existing conditions.

Councilor Bradley: Is it correct what we are being asked to do is say that this one piece that can't be permitted after the fact or by some other agency would be subject to a consent agreement if we agreed to the details of the consent agreement. Yes. There are a couple pieces that have been cited on the N.O.V. that cannot be permitted; part of the deck and part of the exterior wall are over the Shoreland boundary and there is a stone patio and walkway around the house that do not have permits and would not be permitted today. He reclarified whether they did their due diligence and didn't discover these conditions, to which their attorney agreed. The attorney explained that they had purchased the home with intention to update. They came to the town and reviewed the permits that had been issued for prior work. They had no notice that there were violations and there was nothing on file with the town. They did not use legal counsel when they bought the property. He questions what the responsibility of the buyers was when they purchased. The buyers took responsible steps when they purchased the property such as accepting the Disclosure of the people selling the property and came to Town Hall and checked to confirm there were no violations on file, that there were permits on file. You purchase a home with the presumption that there are not violations. They should not be penalized and forced to remove parts of their home because these things weren't on file through no fault of their own. For example, the deck, if the deck was taken off the house, the deck serves as a rear exterior door. They would lose that egress.

How much of the deck is in violation? The manager believes it's a couple feet. There was an exist deck that was expanded closer to the water at a diagonal to the water so it got closer than the house. You can't go any closer when there is a preexisting structure. So, 2 to 3 feet in a wedge and then the patio underneath. You could chop up the deck but they are seeking to avoid. They reviewed photos in the

## COUNCIL MEETING #06-23

MARCH 21, 2023

packets. Whether the rear exterior wall would need to be removed was in question. The Town Manager's understanding is that the house is not being asked to be removed. It's a triangle piece of the deck that is closer. One option would be to remove that portion of the deck.

The town's belief is that a foundation was poured with a permit underneath the existing picture on the front of the property card. The deck that you see is what was in place at the time likely prior to Shoreland Zoning. The town isn't taking a position that the deck was illegal by Shoreland Zoning in the 80's when this picture was taken. They poured a foundation under the house as an expansion. To get to Councilor Bradley's point of estoppel, the foundation permit shouldn't have been issued at the time, but it was so it's legal. The foundation permit would be issuable under today's standards, ironically enough. The work that was done is approvable for the structure and the foundation. He doesn't think it would be chopping a piece of the house off. The manager thought we were just talking about the deck.

Councilor Fournier: there are a lot of camps there. They probably built this prior to accepting Shoreland Zoning, on the deck. If he understands, it's permitted now, but we have the time frame when it wouldn't have been. He is leaning towards agreeing that this should be granted. He doesn't see where it's going to create an erosion or environmental problem, it's been there for 30 years.

Councilor Egan asked about the purchase history of the property. The attorney's understanding is that the family purchased it from the Kay family who purchased it 20 years ago. Prior to that it was owned by the same family since the 1940's. The camp was built in the 1950's and expanded in the 1990's and then sold around 2000 when the Kay's purchased.

Councilor Egan asked if the N.O.V. or infringement on the shoreline zone is not cured, would that prevent a future owner from getting title insurance? Yes, it creates a problem with the marketability of the title if there is a N.O.V. on it.

The other issues are the patio, walkway and wharf (for which permits have been applied for and assuming Coastal Waters and DEP buys in, that will be okay). The walkway is hardly visible random stones that go down the side of the house.

In reading the N.O.V., it would appear that the expansion completed without permits would comply with the current non-conforming expansion Provisions between 25 and 75 feet from the unstable bluff. No permits were issued at the time, so it can be permitted after the fact for the structure, the actual foundation and expansion of the structure. The question of what we can't approve is the patio, part of the walkway (stone walkway to bank) and the deck (how close it gets, when it gets closer than the expansion and the foundation that was poured was to the water when the town last issued a permit which was in 1995).

What would the cost be to fix these issues? They have not had cost estimates performed. His clients understanding is that it would be no less than \$30,000 to remove all the landscaping and deck.

The image of the float and walkway was reviewed. It is not the wooden walkway to the ramp that we are talking about. That would be part of the wharf permit, that's below our 75 foot measurement that starts at top of bank for everything in question here. They are looking at the wooden ramp running down to the gangplank, it's below the bank so it's in an intertidal area there (Coastal Waters and DEP territory). The town isn't saying there can't be a dock there, but it needs to be permitted. The same dock may be able to go back there. There are no records of the deck construction (it would be after 1995 but before the current owners purchased).

They discussed liability of signing a disclosure that didn't have violations but didn't have permits. None of which exempts the purchaser from doing his due diligence to find out whether there are violations on

COUNCIL MEETING #06-23  
MARCH 21, 2023

the property. However, there were no noticed violations at the time. This is not an item that would be usually picked up by a home inspector. It's usually gets caught at the mortgage loan survey so a lot of these things happen on a cash transaction when there's no underwriter looking at them. This got found when the new owners came in to apply for a permit to renovate the house. Codes stated some of it is doable but it doesn't match any of what the town has on record. The clients wanted to apply for a 30% expansion within the Shoreland Zone, thinking they were starting at 100 and wanted to go to 130 %. When reviewed by Codes, they concluded that a 30% expansion had already been used up when the foundation was poured. The owners have accepted that they're not going to get an expansion within the Shoreland Zone which they thought they could get when they purchased. In order to do the backwards facing permitting, they will need to use that 30% expansion or most of it. The whole house is in the Shoreland Zone. The back part of the deck also counts towards square footage. The expansion has already been done which is why they can permit it after the fact.

They need our consent to leave portions of the deck and the patio that are closer and we will be able to issue the after the fact permits. The house is within the 75 foot setback so unless the State law and town's Shoreland Zoning regulations change significantly, they would be limited to expansion rules that are currently in place or as amended in the future. Between 75 feet and the water line is where the house sits. You have a lot more flexibility outside the 75-foot setback. This is immediately adjacent to the water which is why everything becomes an issue for permitting. You are allowed that 30% expansion once over the lifetime of the property of the structure prior to what existed prior to Shoreland zoning going into place.

They may be able to expand upwards, but they would have to do a square footage calculation.

The question tonight is a head nod of whether we go forward doing a legislative consent with the owners to allow the patio and a portion of the deck to remain. If the answer is no, they have a couple other things that they can explore. We could issue an administrative consent for most of these items. They've already corrected the dock.

Councilor Lawrence thinks they've done the right thing and supports approval. Councilor Piltch is less comfortable with the walkway and patio, they would be easy to take up. He's struggling with the deck. It's been here 30 years and it wasn't a problem until we created a law that became a problem. Councilor Daniele would like to know the cost of removing the patios and revegetate. The walkway is stone and could be moved by landscapers. They looked at photos of the patio. Councilor Lawrence pointed out that there has been no erosion there and that is why we have Shoreland Zoning. Vegetation grass or woody vegetation shrubs would be better for runoff purposes. Within 75 feet the water's hitting the stones and going into the water. Whether it picks up anything from the stones depends on how clean they are, i.e. kept free from dog waste. That's why Shoreland Zoning exists and why primary structures have 75-foot setbacks. That's what the regulation is and it's better to have vegetative surfaces.

Councilor Fournier asked if this could be challenged by the Board of Appeals. It could be challenged to the Board of Appeals. There's not a permission that the Board of Appeals could give to allow this to remain in place. The homeowner does have the ability to challenge the Code Officers findings to the Zoning Board. They haven't chosen to do that. There is a stay in place. We are letting them maintain the right of appeal while this explore this avenue.

Councilor Fournier reminded the Council about the upcoming discussion on goals and that we are going to be inclusive and welcoming to people coming to town. He doesn't think what's going on here is right. The property was built 30 years ago, the people have come up in good faith trying to correct the issue. We can knick-pick it apart. He believes the Code Officer is comfortable with the agreement coming



## COUNCIL MEETING #06-23

MARCH 21, 2023

before us tonight. He thinks it should be granted. They polled how many would grant it as is (patio, walkway and deck) with 2.5 in support.

Councilor Pillsbury agrees with Councilor Fournier. He assumes they acted in good faith. Did they not take the extra step to ensure everything was compliant and up to code? Possibly. He thinks it would be reasonable for us to ask them to remove something that is a violation such as a non-permanent structures such as the walkway. It's not something harming their house. They bought something in violation. Why would we grant something like that. I can see granting the deck because it's attached to the house. The physical structure would incur a significant expense to fix it. Is there a middle ground of saying take up the patio as a penalty for not doing due diligence to ensure this property met all the requirements before they purchased it. He worries about setting the expectation in the future, to the Chair's point, of just saying well "don't get a permit, don't worry about it, sell and let the purchaser come to the Council and say "I didn't know".

Could we ask them to remove the patio before they either sell it or ask for another permit. We are not saying it's okay, we give them a permit now, solves the problem, but the walkway has to eventually come up. The next piece of property we are going to talk about tonight is a case where the DEP has proposed something very similar. In that case if it is removed, destroyed or degrades below 50%, that it's not rebuildable as a patio structure. We believe they will be asking for those on any consent in the Shoreland Zone. We don't know for sure, we haven't got that feedback from them on this property, but it's likely the DEP will say all this stuff can stay within the 75 feet only. If it degrades to 75, it's removed anyways. He would be comfortable with that in this case. The question of whether it's above or below 50% now is open to question that would need to be answered for the stone patio. It's not new or been laid in the last 10-20 years. Councilor Daniele would like a condition that it does not get replaced. We also know that's not a positive impact for our Shoreland, right? There are reasons why you do not concrete up to the shoreland. It would be better if it was removed and grassed over. Are we saying trees or the stuff that's supposed to be there i.e. grassy shrubs. Do people read and study our Codes before they buy a house in Freeport? Councilor Bradley did. The shoreland is a complicated place with overlapping jurisdictions.

The Chair asked how many would support approving a consent removing the patio and the walkway but leaving the deck. Councilor Lawrence supports the consent allow maintaining the patio, but if it disintegrates, it could not be replaced. It's not concrete, it's stone. Councilor Egan thinks that creates a conflict. The problem is that it seems like we are picking this segment of time to start enforcing what should have been enforced a long time ago. He doesn't support a penalty to someone who is doing what 4-5 other property owners have already done. There is no N.O.V. on record anywhere. Previous owners were able to get permits and do things without any notice of violation at all when in clear fact there was a violation because there's plenty built in the Shoreland Zone. It seems unfair to pick an arbitrary point in time and say those rules didn't apply then, but they apply now. We have to set a line somewhere and it's reasonable to think that taking out the walkway and patio is an effort to define it and nothing else gets built in the Shoreland Zone, he could be comfortable with that. It's far from perfect solution.

The talked about a time frame for the patio removal, but the Manager suggested waiting until we've talked about the next case. DEP has final sign off on anything the Council agrees to. They have veto authority at the Commissioner's Office to consent agreements. They told us that they will require on these, some of these can be allowed to stay if we sign off on them but there's going to be that degradation, removal, destruction provision saying you don't have the right to reconstruct.

Councilor Fournier believes we should approve what is before us tonight and forward it to the DEP for their review. If there are serious issues that affect the environment, that will be taken care of. They have much more knowledge about it than he does.

COUNCIL MEETING #06-23  
MARCH 21, 2023

The Chair polled the Council to see who would support leaving everything in place as is without the ability to rebuild if destroyed. Based on this consensus they now have enough to move forward and present something to the Applicant for final review. The applicant was asking that it be negotiated out.

2. Discussion of Consent Agreement request for 90 Birch Point. (Town Manager)(15 minutes)

This is a similar situation to the above. There was a wharf that was removed that they are going through the permitting process for now. This is less complicated because there wasn't an expansion of the structure. The building structure was at the 75-foot setback. The question is a more modern recently built patio. The asked the town previously and were told verbally, that didn't count as a structure. Legally, that doesn't mean anything but from an ethics standpoint they did ask the question of a town official and got a verbal answer that is inconsistent with State law. That is consistent to what other homeowners were told that asked that question in the past 10 years. The prior Code Enforcement Officer did not believe that patios required a permit. Councilor Bradley supports this because these owners did the due diligence required, that the owner's of the prior item did not. If they get the wrong answer, it's not their fault. This is another situation where the DEP would write the 50% degradation, it's not perpetual but if you keep in good condition you can keep it. It will go away eventually. Do we have a right to review this? When it gets to 50 % our Code Officer could say "hey". The consent will be recorded in the Registry.

There is the nuance there that this patio was built this way for structural integrity to the septic infrastructure of the house. The builder, our prior Code Officer and Paul Napolitana (earth contractor) all consented this was pinnacle to the work for how to put this together. The septic tank is right in the middle of this thing. They are trying to emphasize that if that patio goes away, they'll have other problems. It's the egress and they are on a hillside so there's a structural component that is necessary there. It's not just the patio. There was consensus amongst the Councilors to support this consent agreement and move forward.

Councilor Bradley stated he was surprised that we do not go back and ask Fred Reeder about this or get an affidavit.

Lucia Kittredge: They bought the house in 2019 and before they bought she came to town hall to review and copy the property file. She met with Code Officer Adams and asked him that they have been told by their real estate broker that everything that's on the property was grandfathered and she specifically asked if the 30% expansion had been used. She was told that if there wasn't anything in the file, than it hadn't been used. So they bought the property thinking the expansion hadn't been used and there was nothing on the property that was a violation. They hired an architect that met with the Code Officer a number of times to get additional information. When they submitted the building permit, they hadn't been able to get a clear answer about how much expansion had used. The architects were then told that Mr. Adams had come up with information that suggested some of that expansion had been used. They then made the decision to just make the renovation within the existing walls. When the building permit was submitted, it was turned down. The building permit was submitted in February of 2022. In June, they received a notice of violation with thirteen violations. They feel they and their architect did due diligence. When the architect met with the Code Officer, which was post purchase, they started comparing square footage numbers and that is when all these things jumped out.

COUNCIL MEETING #06-23  
MARCH 21, 2023

The Chair recommends that we take the Executive Session out of order:

**MOVED AND SECONDED:** To take up item #48-23 out of order and discuss it now before Other Business items. (Piltch & Lawrence) **VOTE:** (7-Ayes)(0-Nays)

3. Council Goals (Chair Piltch)(20 minutes)

Councilor Pillsbury: Item one at the top reads well but one thing that may be missing is the stewardship and safeguarding and management of our funds. We talk about evaluating Operating and Capital budgets but there's another side of it is managing the revenue side of it and appropriately managing the held resources of the Town. He thinks that's a good point to put in there. We've talked about it previously and there is still work to do on periodic review and explanation as to how we're managing those saved resources and what the expectations is of them. It's a lot to be in there, but adding a little bit. Can the Chair add "Assets and Reserves" because the assets also might include buildings that we need to have stewardship of.

Councilor Lawrence: How are we going to measure our goals? They are fine, but how do we measure. The Chair is open to any metrics the Council would like to suggest.

Councilor Bradley: Number 2-the prioritization of attendance and Town Council assigned community meetings. Is that intended for the Councilors? That was a hold over from a prior year, but it is in reference to the Councilors. This would have been from 2021 as were some of the others.

Councilor Fournier: On #2: Between the visioning and all the extra meetings we've reached some goals that we didn't do in 2021. Our communications and on conducting town business, we've opened up and done a fairly good job and maybe take some different credits on those. He thinks we should take some out. He thinks the Downtown Visioning is a wonderful example of how the community was engaged. He thinks we are accomplishing some of the things we are trying to achieve

Councilor Lawrence: #3- Instead of "will support of the notion of Downtown Vision. We're already doing that. Number four is a goal and is measurable. We are already supporting the Downtown Visioning and that's more of a guideline. We can only support increasing housing. We make the rules. We strike the first part before the comma, and say "support multi-family housing and mixed use development". He would even say "increase it", because we're not going to build it but we can make the path for people to build it. We are saying we are going to support it and those actions may help us accomplish the goal, correct? Chair Piltch marked "support increasing multi-family housing".

Councilor Bradley has a problem with cutting it out of the implementation of the Downtown Vision Plan. Make it number 5 because it's a guideline. That's an active goal in Councilor Bradley's mind. Staying focused on that Plan seems to him is a priority goal. The Chair will create one for "implement the Downtown Vision Plan and make a separate one for support the increase of multi-family housing. Councilor Lawrence was trying to make it more actionable so we'll have six goals in the end.

Number #4, we could remove everything "encourages participation in town boards and committees" and say "will review policies that can make service to the town more attractive to a wider audience in order to encourage more participation". He's trying to make it more actionable.

Number one and five seem the same. One was more about communicating with residents and five was more about following up with stuff. That was one of our issues, that we think things get dropped. The

COUNCIL MEETING #06-23  
MARCH 21, 2023

chair will drop “communicate openly” to “we’ll diligently follow up on all approved actions.” The Chair will word smith it and come back.

Councilor Fournier: On number 2- we’ve specified natural resources but shouldn’t we do all our resources such as our infrastructures, our roads. He looks at all the resources the town has that we’ve got to have that priority. He’d rather have it more inclusive. He was going to add to item #1 the guideline - instead of saying just “taking care of our savings and reserves” to say “all our town assets” so include the natural kind.

4. Capital Budget Workshop (60 minutes)

What do we need to do tonight? There is nothing formal, April 4<sup>th</sup> is the Public Hearing. This was just if there were further questions and direction. This can also be done at the Public Hearing.

Councilor Fournier: The \$30,000 for AV equipment for the Fire Department: that could be funded through the donations they receive and maybe if the Chief approached the fire company that might be taken care of. He would recommend removing this item from the Capital Budget. He also met with Public Works Director Gibson and thinks they came up with a way to save money on the expansion. He is also interested in the savings of eliminating brick sidewalks. Brick sidewalks are more expensive and work intensive than hot top. The Town Engineer is working on a cost analysis of that. The appropriation in the budget is to replace existing bricks. They do not remove all brick on that footage that is presented in the plan. It is replacing areas of upheavals, broken bricks, areas that need to be recompacted, etc. Not to saying paving isn’t cheaper, but all the brick would come out and paving go down. By having paving though we would not have the cost of replacing bricks.

Councilor Egan: Cemetery Reserve Accounts-Where are they listed? Are they part of the Capital Reserves that are attached to the Capital Budget? They are in their own Reserve and held separately from what you have in front of you. They are held within the same institution, but are within their own account because the perimeters of investment are different than the Capital Reserve investments.

This version includes the list of proposed changes discussed at the last meeting. They are also working with the Fire Chief and the Cable department to come up with alternatives to the \$30,000 for Audio Visual equipment. It will cost less than the proposed \$30,000. They will come back for a subsequent appropriation if they need more.

Councilor Egan is going to do research on the EV Chargers for Town Hall to see if there is grant money available. He wants to see level 3 chargers instead of level 2.

EXECUTIVE SESSION

ITEM # 48-23                      To consider action relative to an Executive Session pursuant to 1 M.R.S.A. § 405(6)(C) pertaining to a Real Estate matter ~~and 1 M.R.S.A. § 405(6)(A) pertaining to a Personnel matter.~~ ~~\*\*This should be M.R.S.A. § 405(6)(E) pertaining to a Legal matter.~~

**MOTION:** That the Town Council enter Executive Session. **MOVED AND**

COUNCIL MEETING #06-23  
MARCH 21, 2023

**SECONDED** (Piltch & Egan) **VOTE:** (7-Ayes)(0-Nays)

**MOTION:** That the Town Council exit Executive Session. **MOVED AND SECONDED** (Piltch & Egan) **VOTE:** (7-Ayes)(0-Nays)  
(45 minutes)

**Motion to adjourn. MOVED AND SECONDED:** (Lawrence & Daniele) **VOTE:** (7-Ayes)(0-Nays)

**END OF AGENDA (Estimated time of adjournment 10:45 PM)**

	<b>OUTSTANDING OR UPCOMING ACTION ITEMS</b>	<b>INITIATED ON</b>	<b>PROPOSED BY</b>	<b>ADDITIONAL INFORMATION</b>
<b>#1</b>	<b>Review of Town fee schedule this year</b>	<b>1/4/2022</b>	<b>Councilor Pillsbury</b>	<b>Tasked for April 2023</b>
<b>#2</b>	<b>Schedule dates for touring facilities</b>		<b>Chair Piltch</b>	
<b>#3</b>	<b>Explore new fire rescue substation in District 2</b>		<b>Councilors Fournier &amp; Bradley</b>	