

MINUTES
FREEPORT TOWN COUNCIL MEETING #02-22
TOWN COUNCIL CHAMBERS, 30 MAIN STREET, FREEPORT
TUESDAY, JANUARY 18, 2022
6:30 PM
Hybrid Meeting

| <u>ROLL CALL OF MEMBERS:</u> | PRESENT | EXCUSED | ABSENT |
|--|----------------|----------------|---------------|
| Edward Bradley, 242 Flying Point Road | x | | |
| Jake Daniele, 264 Pownal Road | x | | |
| John Egan, 38 Curtis Road (Vice Chair) | x | | |
| Darrel Fournier, 3 Fournier Drive | x | | |
| Henry Lawrence, 93 Hunter Road | x | | |
| Matthew Pillsbury, 36 Todd Brook Road | x | | |
| Daniel Piltch, 25 Quarry Lane (Chair) | x | | |

Chair Piltch called the meeting to order at 6:30 p.m. and welcomed everyone. He took the roll and noted that all Councilors were present including Town Manager, Peter Joseph.

FIRST ORDER OF BUSINESS: Pledge of Allegiance

Everyone stood and recited the Pledge.

SECOND ORDER OF BUSINESS: To waive the reading of the minutes of Meeting #01-22 held on January 4, 2022 and to accept the minutes as printed.

MOVED AND SECONDED: To waive the reading of the minutes of Meeting #01-22 held on January 4, 2022 and to accept the minutes as printed. (Lawrence & Daniele)

VOTE: (7 Ayes) (0 Nays)

THIRD ORDER OF BUSINESS: Announcements

Chair Piltch announced the following:

- Join the Town of Freeport from Feb 3rd to the 7th for a public design workshop for the Freeport Downtown Vision Plan. The project team will host an open studio in downtown and facilitate roundtable discussions, a block party, and workshops to co-design the future of downtown Freeport together with the community. For more information and to register visit:
www.freeportdowntown.me
- The Appointments Committee is seeking residents interested in serving on some of the many Town Boards and Committees. The Committee will be meeting soon to discuss filling current vacancies and terms which will be expiring at the end of March, including spots on the Appeals Board, Hunter Road Fields, Board of Assessment Review, Coastal Waters Commission, Library Board of Trustees, Planning Board, Winslow Park and Project Review Board.

For more information on Town Boards and Committees as well as applications go to freeportmaine.com (see “Volunteer Opportunities” on the homepage). Applications are also available at the Freeport Town Hall.

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- The AARP Foundation Tax-Aide program has not fully launched for the new tax season. If you visit the website below near the end of January, you should find the “Site Locator” tool where you enter a zip code and find locations nearest you for in-person tax preparation (with limited personal contact due to Covid-19). If you visit the page now, you’ll find information on online tax preparation assistance and self-filing software that’s available at no cost to qualifying taxpayers. <https://www.aarp.org/money/taxes/aarp/taxaide/>

Vice Chair Egan pointed out that coming up this Thursday at 7 p.m. virtually on the Town’s Zoom account, will be a workshop and seminar on Freeport Climate Action Now, an educational and informational session for people in our community to learn more about what they might be able to do to address changes in our climate and to better understand what is causing those and also to learn more about the people and groups in our community that are working towards this issue. It is 7 o’clock this Thursday. It is all on line and will be originating here in Town Hall and broadcast on the Town’s zoom account. There is a large banner across the post on the south end of Town where Desert Road comes into Route One. There is information and details there or just go to the Town’s website where you will be able to find information about it.

FOURTH ORDER OF BUSINESS: Information Exchange

Councilor Lawrence reported that he attended the Complete Streets meeting last Tuesday and they are figuring out how to get us a path from the downtown to the YMCA and the Royal River Bridge. They have come a long way thanks to L.L. Bean and the group that is doing the Solar Farm. They were very excited about it. Chair Pilch added that he is also excited about that trail.

Councilor Bradley, reporting on the Island Rover, he advised that he received from Attorney Braden, an attorney for Harold Arndt a launch plan that was in a fair amount of detail and he sat down this week with the Town Manager and Adam Bliss and went through it in detail. They made some decisions among themselves of what they need to do in terms of due diligence before they bring it to the Council. They will be doing that over the next couple of weeks hopefully. He is hoping to have a package for the Council’s consideration at the next meeting or the one after depending on how that work goes. Chair Pilch mentioned that a lot of people will be very happy if that boat gets launched.

Councilor Lawrence asked how the clean-up went? Councilor Bradley advised that between what Earl did for the Town, what Harold did on his own and what Carter did, there was substantial clean-up of the right-of-way and the site. If anyone went out there, they would say a lot of work has been done and it is a lot better. The plan is between now and the summer for Harold to try to sell the things he thinks has value and then have a last round of clean up at the end. Councilor Bradley is pleased to have this cooperation and collaboration and that it is leading towards productive, collaborative discussion about the launch plan itself. At least in concept it is working. All hands-on deck, so to speak. Councilor Lawrence thanked Councilor Bradley for his excellent work on that.

Mary Davis, President of FEDC, advised that two weeks from this weekend, they are doing their Downtown Design Weekend. As the Council has seen before, the weekend is divided into several different meetings and this is really going from Phase One where we talked about what we wanted to Phase Two and Three where we now design what we can do so in Phase Three we have a plan that comes out of that back end. During this Design Week there are two meetings, the kick-off and the closing that will be at the high school. These will be public meetings, forums where they will be describing exactly what they will be doing for the week and exactly what will be coming out of the week. In the center of

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that week will be seven workshops that are based upon what we as a community said were important topics to us. They will be diving down into what they can do based upon what we said we wanted. There will also be open studio time when the community can come in and take a look at some of the designs and sketches and things that are being done. Again, it is a great weekend that is in front of us. How to get involved? Please go to the website where you can sign up for either the workshops themselves or for the newsletters that are coming out. One of the big things they have been doing over the past couple of weeks is all about communication. They are sending newsletters out on a weekly basis that give more details of the content behind each one of these workshops. They tell you more about what the background is, what the questions are, what to think about before you get to the workshop. They also put posters up on Facebook, on Freeport Friends in community locations trying to get as many people as possible signed up for this Downtown Design Week to get community involvement.

She displayed a slide that showed who has signed up for what. She explained that COVID is always playing into how they are doing this planning. At some point she believes they may be an interesting case study of how to do a complete downtown planning during the entire period of COVID. They have had tremendous response from our community for attendance at these meetings. They have 96 people signed up for the Kick-off. Because of this, one of the changes they adopted is that the workshop, the kick-off and the closing will be live in person with masks in the high school and then the actual topic workshops themselves will be remote. They made the choice this week to make planning for those remote needs because the numbers of people that wanted to attend were increasing and they wanted to make sure everyone was safe. There is more to come on that and the Council will hear much more about that. The idea was that they want people involved and with technology and other things, they are working to make sure they can include everyone where they can so they can get the community's insights on where to go from here. She thanked the community for all of the passion and participation in this. They are really looking forward to it.

Chair Piltch thanked Ms. Davis, Caroline and everybody else on the Project Team. He mentioned that each Councilor has a schedule that was up on the screen. There are extra copies on the back table as well. If anyone needs a schedule, he would be happy to share. He clarified that there is a kick-off workshop Thursday evening and a closing workshop on Monday evening. Those are both in person at the high school. There is also a live streaming of both of those. If anyone doesn't want to attend, they can watch them on tv. The blue Topic Sessions are remote only so Councilors can zoom into those if they want to participate. The purple areas on Sunday are for open office hours and you can make an appointment and come in and talk to the folks. He wanted to extend an invitation to any Councilor that wants to talk to him one on one or Ms. Davis and the Project Team to make sure you are getting the information you would like to have prior to Design Week or anytime. Just let him know. Both he and Ms. Davis would be happy to meet with you. He pointed out that he did put on the calendar two additional Council workshops dedicated to the Downtown Design Vision. Those are Tuesday, March 29 and Tuesday, April 12. He will have them on the formal calendar at the next meeting but he wanted to give the Council a heads up. That was response to our last meeting when we tried to anticipate how many workshops we would want to have. After Design Week is done and the plan starts to solidify, we will have an opportunity to workshop here at the Council on those two Tuesdays. We can do more if we need to. There were no questions and Councilors thanked Ms. Davis for her presentation.

1. Update on COVID and Mid Coast Hospital status (Dr. Chris Bowe and Lois Skillings) (15 minutes)

Chair Piltch advised that Dr. Bowe and Ms. Skillings asked to speak to us tonight about what is going on at the hospital and the conditions there. Ms. Skillings thanked the Council for inviting them back. She noted it was about a year ago that they were here to talk about their vaccine efforts and is confident

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everyone has seen the results of that over the past year. As they are seeing the latest surge that started in earnest in late November and is really ramping up now, they felt it was important for the Council to get a pulse check from the local health care system. She advised that Dr. Bowe is their Chief Medical Officer and she is Freeport Falcon Lois from Pownal and feels it is always great for her to come to Freeport. Caroline provided her screen sharing abilities. Ms. Skillings advised that Mid Coast Hospital has been at full capacity since around thanksgiving. In late November they really started to see the ramp-up of in-patients throughout the Maine Health System. In the last few weeks of December, they started to see a slight decline in the numbers of patients. As of today, they are caring for 12 in-patients at Mid Coast but in late December, it was 25 a day. They are seeing a huge amount of community increase. In their Emergency Department, every single day is overflowing. They have a 21-bed emergency department and they are basically seeing over 40 patients at once. They now have hallway stretchers that they put patients on in the Emergency Department's overflow. Every one of their 54 Medical Surge Beds has been full at Mid Coast and their Intensive Care Unit has also been full so it is really the most challenging that they have seen here since the beginning of the pandemic. In November they paused for patients who didn't need emergency surgery but was for more elective such as joint replacement surgery where they would need to spend a night. Two weeks ago, they dialed back their free-standing ambulatory surgery center so they could transfer that staff to help them care for the in-patients in the Emergency Department. They also transferred some of their primary care providers, an Internist and a Nurse Practitioner to help in their Intensive Care Unit and on their Medical Surgical Unit. This need to redirect some staff because of staffing shortages because of this surge they are seeing of the highly contagious Omicron variant that has been really prevalent in Maine since late December. She displayed a graph showing the peak of all of MaineHealth in all of the State of Maine state wide and New Hampshire state wide. She added that they are coming here tonight to appeal to the public and let the Council know that the health care system is as challenged as it has ever been and people are working so hard. They asked that everyone wear a mask regardless of their vaccination status. The good news with Omicron they are seeing is that the disease is mild for people that are healthy and are vaccinated and have boosters. The bad news is that it is spreading like wildfire. She urged everyone to get vaccinated and as soon as they are able, to get their booster shots. At the end of this presentation, she has examples of where people can get their booster shots easily. The vast majority of those hospitalized with COVID 19 and those on respirators and those dying of COVID 19 are unvaccinated. She asked that everyone please be kind and patient with their care team members. People are working extraordinary hard every single day in the face of significant capacity and staffing challenges. It is like nothing she has ever seen in her career with the number of patients they are seeing and also the challenge they have now with staffing shortages. She also requested that everyone get their flu shots. They are seeing influenza in Maine and it is helpful when people get their flu shot to decrease the number of patients they are seeing in the hospital.

Dr. Bowe advised that they would be happy to answer any questions and engage in any dialogue but when asked what people can do to help prevent the spread of the coronavirus? Masking is one of the things that has been proven to limit the spread of the coronavirus. It is a significant addition to help protect both yourself and others. When combined with vaccinations and boosters, and then efforts to maintain physical distance with those outside of your households, being careful with hand hygiene which we have all been learning to do over the past two years and avoiding those large gatherings and ensuring that you are in adequately ventilated spaces as much as possible are the basics. The basics have been working as much as people are able to. They have a strong impact on preventing people from becoming infected. They have been fortunate to have evidence of that. At Mid Coast Hospital, transmission between staff and patients has been incredibly rare. In fact, the very few times where a staff member has been infected by a patient with the coronavirus, each time they were able to identify what was missed in their personal protective equipment. Over the two years of this pandemic, they have had less than five cases of a staff member being infected. It really goes to show the value of those basics. Wearing masks indoors in public spaces is a definite way to protect ourselves. He displayed a slide showing the effectiveness of masks and

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explained it. He pointed out that there is dramatic protection by wearing a fit tested N-95 but even when you step it down to a simple surgical mask, you double the amount of time and then half as much of a dose in those 30 minutes. This goes to reinforce the benefit of masking when we are around individuals in our homes so we have added time to be in the grocery store or all those tasks we need to do in public and be safe around others who may be infected and perhaps don't yet know they are infected. Some people can be infected for as much as 48 hours before they see signs they are infected. If we are careful around others, we can protect ourselves from that exposure. He added that one really important thing is vaccination. So far, they have given over 73,000 doses of the vaccine and had an amazing community response. They really encourage people to get vaccinated and if they are eligible for a booster, to get that booster. While there is certainly a lot of information online, if someone is uncertain or is hearing lots of different information and is confused whether they should be vaccinated or not, they ask that they go to their trusted health care provider and talk to them about whether they should be vaccinated. They continue to offer vaccinations on their campus. They have sign-ups for appointments. They have established what they call their Walk-in Wednesdays where people can come in between 9 a.m. and Noon and get a vaccination. They don't have to sign up in advance. They also have a phone number for people to call and get help with making an appointment if that Wednesday doesn't work and they need someone to help them. He is a practicing emergency physician and is seeing people in the Emergency Department and when they have been vaccinated, it is pretty predictable that they don't get as sick. Certainly, people can have a lot of underlying illnesses and get infected even after being vaccinated and it can make them sick but it doesn't make them as sick as what they have seen with patients that were not vaccinated. They want to keep their patients as healthy as possible so they encourage those vaccinations. He thanked the Council for letting them both present tonight and offered to answer any questions for the Council. Ms. Skillings advised that their message is that the health care system here at Mid Coast throughout Maine Health is that they are experiencing the biggest surge of COVID patients since the beginning of the pandemic and is putting a big strain on your health system and is impacting the care they want to be available to provide for patients that don't have COVID so they are asking the public to do everything they can to help once again stop the spread and bend this curve especially as they are going through the highly contagious Omicron phase they are in right now.

Chair Piltch thanked both of them for taking the time to come in and give the Council this update. He also thanked the staff at the hospital for doing what they are doing. He recognizes it is not an easy time for them. Councilor Bradley asked how many booster shots make sense and what the time period between them should be? If someone has been boosted, is it the end of it or should they be looking at another booster if you are concerned about being fully vaccinated? Dr. Bowe explained that right now the boosters are available six months after you received Pfizer. It is different on each vaccine you received. If you received the Johnson & Johnson vaccine, it is after two months. If you received a course of Pfizer, it can be after six months. With Moderna, it is after five months. There is not a second booster dose timing recommendation yet but he suggested that we all hold on and wait because he anticipates there will be further boosters in the future. Right now, make sure you are vaccinated and if eligible for a booster, get that first booster. There are some unique situations where people have a high degree of immuno-suppression from a disease that they have or medications they have been given, and may qualify for a fourth shot. Connecting with your physician or health provider can help you see if you are one of those people and they can get you in and vaccinated.

Councilor Fournier feels we have done a good job of getting the message out to properly wash your hands and wearing masks when you are around people and we have seen a lot of that. He also has seen some negative aspects with some of the mandates that have concerned him with people leaving the health care profession and public safety. He knows that Dr. Bowe has experienced some of that in their organization. If we have a strong positive message, he hopes we can accomplish that without having a lot of backlash from people who want just push the system when we say they have to do something. There are people out

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there that will be obstinate and not do it. It would be nice if we could find a middle ground to get everyone wearing a mask. He hopes we can accomplish that without having required mandates. Ms. Skillings noted she saw Councilor Fournier's point and would like to reinforce that the actual vaccine mandate was a big help with the number of people. While we may have lost a few, here at Mid Coast they lost a little more than 1% of their workforce but actually the number of their workforce that were out of work because of COVID, and the length of time now because of the boosters Omicron is actually less than before the vaccine mandate in health care. She thinks we will find that in health care it is going to work out okay for them to have had that. She fully understands the sentiments of the public. It is hard and everyone is tired of this pandemic. That is why they wanted to tell the Council that they are just having this one more push here. It is really hard right now with Omicron. There are some good parts of what is happening right now as Dr. Bowe explained. We are seeing that this variant is not causing a serious disease, especially among vaccinated people. They tend to have fewer symptoms and is tending to pass quickly. There is still the matter of the vulnerable people among us and right now the health system is overwhelmed. That is really the issue right now. Dr. Bowe added that the health system and their staff are overwhelmed. If you need to come to our Emergency Department, there is a chance you will be on a stretcher in the hallway. They don't want to treat you on a stretcher in the hallway. They want to treat you in a room but they need to see you somewhere so they can take care of you and their teams are working extra shifts because their partners and colleagues are out sick with COVID. They are so grateful for what their staff has done and at the same time, the public at times is less patient because they expect, of course, to get excellent care and be seen really quickly. They are surprised when there is anything holding them back from being seen or visiting someone. They feel bad about limiting visitors but they just can't have them present right now because of the risk of infection being so high and so much of their staff being out from these exposures. They request that the public have patience with their staff because their staff is doing such an incredible job and any steps, wearing that mask so you don't infect someone else and you don't get infected and then when a family member or a neighbor has appendicitis, they can get in and get seen and be taken care of right away. That is where their teams want to be. They want to be able to focus on taking great care of patients the moment they came in and not figure out who can work today and how can they manage all those normal tasks that are so much harder in times of COVID.

Councilor Fournier asked if the Maine CDC will be coming out with any mandates. Dr. Bowe did not know. Ms. Skillings advised that they are not asking the Council to have a mandate. They recognize that public policy is the Council's expertise. Their expertise is health care and they feel everybody should be wearing a mask. They know that masking prevents the spread of this disease. Whether or not and how you require it in a municipality is something that is complicated but they support it. If the Council were to choose to do that, it is something they would support. Chair Piltch asked if someone shows up on their door step in the Emergency Department, you will provide care and won't turn them away on the street. Is COVID impacting your ability to provide care in all the other parts of the hospital? Dr. Bowe advised that it is as Lois described earlier. They have had to limit some of the regular care that they would normally do. They have a lot of safety measures in place to ensure that they don't have someone come to their hospital and get COVID at the hospital but they take a lot of added time. Ms. Skillings advised that since Thanksgiving, they have not been able to do joint replacement surgery for people that might have to spend a night because they haven't had a bed. They are still seeing people in their primary care offices. They are aware that people need their preventative care so they are doing everything they can to keep that access to health care as open and available as they can but sometimes it may take a little bit longer for the things that are not urgent or emergent. She noted that she has been a nurse for 42 years and she has never seen it like this. She has never seen the number of deaths they have seen from COVID patients. She feels this is going to impact an entire generation of health care providers with the amount of disease and death that they have seen.

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Chair Piltch thanked them for taking the time to come and talk to us. Ms. Skillings added that they are very hopeful that they will soon be turning from pandemic to endemic and learning how to live with COVID and get to a better place. She thanked the Council for their attention tonight and for all they are doing.

FIFTH ORDER OF BUSINESS: Town Manager's Report

Mr. Joseph advised that everything we have been working on in the past two weeks is on the table tonight so he will save his comments until we get there. He thanked our Public Works Staff, Police, Fire and also the Public Works Staff. Specifically, a lot of people don't know, but behind the scenes we do work up a bit coming into a high wind event. We had one last Friday and we had one just yesterday. While neither of them materialized, there were some scary numbers going out from 60+ mph gusts on the coast. We didn't see anywhere near that but thanks to both of our chiefs and also our Public Works crew who were in plowing all day yesterday. We were fine but he wanted to give them a little acknowledgement for the behind the scenes work on Friday over the phone and yesterday. We are good for now but of course; those events can pop up any week. We will stick around when they happen. Chair Piltch thanked the Public Works Department and all the folks in town that keep us going.

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

Chair Piltch explained that if anybody wants to talk about masks, they should hold off because we will be taking public comment on that when it comes up later on the agenda. He mentioned that speakers should limit their comments to 3 minutes.

Mike Yates advised that he is representing his daughter and son-in-law tonight and their business. He has lived here for 48 years. The recent activity they had with the Codes Enforcement Officer was not a pleasant experience. In his opinion, they experienced some things that he feels should not have happened. He feels this individual does not know what he is doing but should go to school to learn how to deal with his customers, the taxpayers. His daughter's daycare has been here for 20 years but had to move into another facility and invested a lot of money into it. They requested that this gentleman come down and go through it with them but he did not have time. His son-in-law wrote up a little thing and e-mailed it to him. He is giving it to the Council. He doesn't want anyone coming in and investing money when it is unnecessary. The nursery school is doing very well. He mentioned that they had the State Fire Marshall come down as well as the head of the Licensing Division but got no response from the CEO who is our own Town person. He may be a great guy and may know everything but he is just saying it was not a good experience.

Councilor Bradley asked Mr. Yates if the specifics of his concerns are listed in the e-mail he provided? Mr. Yates indicated that they are. He also feels the former Fire Chief was a bad actor.

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

ITEM # 18-22 To consider action relative to adopting the January 18, 2022 Consent Agenda.

BE IT ORDERED: That the January 18, 2022 Consent Agenda be adopted.
(Piltch & Egan)

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Chair Piltch reviewed the items on the Consent Agenda. In addition to what is on the printed agenda, the Appointments Committee met just before the Council meeting and have some nominations they would like to add to the Consent Agenda

BE IT ORDERED: That the following appointments to Boards and Committees be approved:

Appeals Board from now through September of 2023-Linda Hines

Library Board from now going through March 31, 2025-Kay Majcher

Sustainability Board from now going through September 30, 2023 – Leslie Graham

1 Student appointment to the Police Advisory Committee from now going through September 30, 2022 – Conrad Anderson

1 Student appointment to the Police Advisory Committee from now going through September 30, 2023 -Savannah Tracy.

Project Review Board from now through March 31, 2024 -Lynn Hamlen

Chris Wolfe wanted the Council to know the reason why there is a Victualer in front of your place setting is because it was a late arrival today. That is why Derosier's Restaurant's Victualer's was at your place setting. It was already on the agenda but got here late.

Councilor Bradley advised that he will be abstaining from the vote because one of the appointees comes from his family.

VOTE ON ADOPTING THE CONSENT AGENDA: (6 Ayes) (1 Abstention-Bradley) (0 Nays)

ITEM # 19-22

To consider action relative to setting a public hearing to discuss proposed amendments to Chapter 10 Ordinance Requiring Notice for Outdoor Events with Attendance in Excess of 250 People, to add a standard about maintaining accessible (under the Americans with Disabilities Act) parking and access.
PUBLIC HEARING.

Chair Piltch feels this action is updating the language in this Ordinance to make it similar to the language we updated at our last meeting. This Ordinance is not one that we updated last time and is mostly about ADA parking and similar accessibility requirements for outdoor events with more than 250 people.

MOVED AND SECONDED: to open the public hearing. (Pillsbury & Lawrence) **VOTE:** (7 Ayes) (0 Nays)

There were no public comments provided.

MOVED AND SECONDED: to close the public hearing. (Pillsbury & Lawrence) **VOTE:** (7 Ayes) (0 Nays)

BE IT ORDAINED: That proposed amendments to Chapter 10 Ordinance Requiring Notice for Outdoor Events with Attendance in Excess of 250 People, to add a standard about maintaining accessible (under the Americans with Disabilities Act) parking and access be approved. (Pillsbury & Lawrence) **VOTE:** (7 Ayes) (0 Nays)

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ITEM # 20-22 To consider action relative to the enactment of Freeport Ordinance Chapter 61, Emergency Ordinance: Face Covering Mandate to be effective January 18, 2022 until February 16, 2022 pursuant to the Freeport Town Charter, Section 2.14 “Emergency Ordinance”.

Chair Piltch explained that the policy regarding Town employees’ vaccination and testing is not on our agenda tonight. We have a policy for mandating that people in municipal buildings like Town Hall and the Library must wear masks and that is not what we are talking about tonight. What is on the table before us tonight is an ordinance that would require people to wear masks when they are in buildings that are open to the public such as stores, restaurants and things like that within the Town of Freeport.

BE IT ORDAINED: That Chapter 61, Emergency Ordinance: Face Covering Mandate to be effective January 18, 2022 until February 18, 2022 pursuant to the Freeport Town Charter, Section 2.14 “Emergency Ordinance” be enacted.
(Daniele & Bradley)

While this is not an official public hearing, Chair Piltch opened the meeting up for public comment and requested that the comments be limited to 3 minutes. There may be people on zoom that will share their comments after we hear from people in the room.

June Chambers, co-owner of Sunrise Café advised that she is here to speak for herself, the café and her employees. She feels they have done a really good job at their café keeping people managed. They have stopped people visiting from table to table and have been diligent with sanitizing. Her staff has worked very hard and they talked about the mask mandate that was going to come up. The anxiety level for them is very high thinking they will have to wear a mask for 9 hours. She is shorthanded and worries about losing the dedicated employees she does have. She is not sure that along with all the things they are doing now and they are going to have to police people to wear a mask. When there was a State mandate, people were very hard to manage. She wants to keep doing what they have been doing. They have not had a problem with COVID outbreaks at the café.

Dominic Petrillo, a local business owner started off by saying it is a bad idea for the Town of Freeport to adopt this emergency measure. He does not think that a Town enforced mask mandate is a good idea. In going through the mandate, he has a lot of things he has an issue with. The public buildings definition, it looks like if you are in the back space, the office space, the mask mandate does not apply. The exceptions are pretty open ended. It doesn’t clearly define what an exception is and anybody can just make up anything. The exception he decided is applicable to him fits into this description. The posting requirement makes sense. Of course, they will have to post if there is a mask mandate. The 30-day effective period is probably a good idea. He would like to see something say that it can be changed at any time with the Council’s consent. He also sees that there is a \$500 per occurrence civil violation. That needs to be more clearly defined. It is not clear what an offense is or how many offenses you can have within a building in the same day. He thinks it is nonsense to have business owners enforce this rule. If the Town Council wants to make a mandate for people in the town, you can find some other way to enforce it rather than make business owners and their employees responsible for enforcing this mandate. It is total nonsense for the Council to assign that to people that work in a business. If you want to do it, you can pay for extra police to go around and police but the Town should not be expecting people within businesses to enforce this mask mandate and the potential of a \$500 fine per occurrence of a violation for that person in the business is ridiculous. Going down a little further, there is something he thinks is even worse in this mandate. The Freeport Police is authorized to enforce this ordinance so you mean to tell him that he is supposed to call the cops and have the cops come down and tell somebody to put a mask on if they walk into the building? It doesn’t make any sense and he thinks it should be tabled today and at

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least looked at very clearly. Some of those items that are not clearly defined should be defined and it should be left to the individual at the business as well. There is no reason to put a mask mandate up there that everyone has to follow. We are all adults and can make adult decisions for ourselves walking in businesses and having masks on. The vast majority of people that come into his restaurant have masks on when they proceed to their seat. Some of the employees mask and some of them don't but again, they are all adults and can make that decision for themselves. If someone doesn't want to come into the business because there are some that are not masked at all times, they don't have to come in. This is a private business and he thinks it is foolishness to ask that everybody be required to wear a mask inside a private setting as it is defined in this emergency mandate.

Chair Piltch clarified that they were careful to craft the ordinance so that the business owners and operators were not required to enforce the mandate. They are required to put a poster in the window saying that masks are required in the business but they are not expected to be the people that are policing the mandate. Mr. Petrillo asked if the expectation is that somebody else calls the police or somebody in the restaurant calls the police? Chair Piltch advised that some of the Councilors will have questions along similar lines and we will definitely talk about that.

Andrew Arsenault wanted to speak in opposition to this mask mandate. On the radio today there was a discussion about children wearing masks. He is sure this will pertain to schools because they are public buildings. They said that young people learn especially well if they can see other people talk. When you deny children the ability to see people's mouths and see them talk. Even with a new immigrant trying to learn the English language, if they can't see people talk, they can't understand how to pronounce words. He learned in this building that you have to learn how to do these things and you can't do it wearing a mask. It is a 50-50 shot whether these things do anything or not. Some doctors say it is really for the comfort of the other person so you don't spit or breathe on them when you are hanging over them. He is opposed.

Jim Hughes advised that he is a professional engineer and has lived in Freeport more than 40 years. He provided a handout to the Council. He added that he is not a doctor but he is a scientist and engineer. He wanted to speak in opposition to this forced mandate on masks. He disclosed that he sells air purification equipment. He watched closely the COVID thing for two years now and since it is part of his business, he has to be up to date on it. He would recommend following the science. He explained his handout. It is his opinion that masks are totally ineffective against the virus and are just not working. What we heard from MaineHealth is what he would call establishment doctors. The non-establishment doctors are given the truth on COVID. One of the questions he would ask these doctors is what are they giving these sick people? Are they giving them Ivermectin? That is what they should be giving them and if they don't, they will have a hospital full of sick people. He pointed out that cruise ships are going out again and of all the cruise ships going out, they had at least 96% of the people vaccinated and that is because they have kids on there that are not vaccinated. Basically, all of the adults are vaccinated and all are wearing masks. 86 of them have had break-outs so tell him how the masks are working. He is in favor of the mask versus no mask leaving the individuals with decision. The businesses in town can make the decision on how they want to treat their customers. He noted he could talk for another hour.

From the zoom audience, Jenny Yasi mentioned she just did a quick look up proceeding of the National Academy Sciences of the USA. There is a preponderance of evidence indicates that mask wearing reduces transmissibility per contact by reducing transmission of infected respiratory particles in both laboratory and clinical context. She went to a grocery store this morning and was surprised to see how many people were not wearing masks and seemed to not understand that they were putting her at risk. She is aware that restaurants are able to keep people from smoking indoors and they are able to get people to wear shirts and shoes indoors and there are many other regulations that restaurants need to do to keep their customers

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and employees safe. She and her husband have not gone to a restaurant for two years while they used to go to a restaurant twice a week. They would be going to restaurants if all the employees were wearing masks and if the spacing was safe. This is the same for grocery stores. She has been ordering groceries on line because it is scary for her to go to the grocery store. There are many things she would like to be able to do. She would like to go swimming at the Y but she is afraid they don't have people wearing masks in the Gym Room and does not want to walk through a cloud of virus particles. From some of the research she has read, some of those particles can stay suspended in the air for hours. In the pool, it is not so bad because chlorine kills the virus and they have more spacing for people in the pool. In the Gym Room, it puts people at risk. She strongly supports the mandate because right now we are in an emergency situation. She wears a mask to protect all of you from getting COVID and really wants people around her to have the same consideration for her life and health so we can stop this pandemic as soon as we can. She does not believe the mask mandate needs to go on forever but it will really help us reduce the number of people in the hospital and make sure if someone is in a car accident or has a heart attack, they will get the care they need. She thanked the Council for considering this mandate.

There were no additional zoom comments provided. Chair Piltch advised that this is before the Council tonight as an emergency ordinance. We felt it needed to be passed without the normal two-week process to set a public hearing, have the public hearing and then pass a regular ordinance. As an emergency ordinance it requires a vote of five Councilors to vote for this in order for it to take effect. That is what we will be up against.

Councilor Fournier asked Mr. Petrillo if he would be willing to put up a sign saying "we highly encourage that masks be used in our establishment?" He explained how he walked into a store in Brunswick and did not appreciate how he was greeted. He is trying to find a balance where it would trigger him walking in there with a sign at the door to put his mask on. Mr. Petrillo added that he has heard many times that people are greeted unpleasantly about a mask mandate. He does think that if the Council were to come out with a strong recommendation for masking, most businesses would comply with it. He has a sign up in his restaurant that recommends people wear masks but are not required. He thinks the vast majority of businesses in Freeport have a sign that does recommend. Maybe some kind of a statement from the Council encourages a conspicuous sign that strongly recommends wearing a mask. Maybe just a simple e-mail from the Town that is a letter sized piece of paper that people could print off with a picture of a mask and make it easy for people so they could print the attachment themselves and would have a ready-made sign for their business window.

Councilor Lawrence stated he is not for this for all the reasons already stated. He feels it will be expensive for the businesses to comply and it is hard to police this. He feels masks do not work. He lived through a month of COVID with his family. They all wore masks. When the doctor talked about what they are doing at the hospital, they are wearing gloves, goggles and N-95 masks. He feels this is a feel-good policy that is not needed. He hates wearing a mask and is against the State telling us what we have to do. If someone is terrified of this disease and he gets it, or you have a compromised immune system, what you really need to do is not come to Town. Find someone else to help you get what you need. If you can't find someone, call the Community Center. They have plenty of people that will help you get what you need but to force everyone to wear a mask because you are afraid is the wrong approach. That is his two cents.

Councilor Pillsbury advised that he is 100% in support of this. He feels it is the least we can do as a town. He wanted to go on record saying he has received numerous e-mails in support of this and had really well thought out arguments. We have been dealing with this for two years. Everyone is tired of it but if we don't actually do something, we are going to continue to live with this. He doesn't think it is fair to say, if you are afraid of this, stay home. It's a public health and we have to do what is good for common good and we need to move past this. He is in support of it.

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Councilor Fournier is opposed to this. He feels it should be a positive approach and not a punitive approach. We will learn more as we go each day. He is encouraged by the numbers that are coming down. He will be voting against this this evening.

Councilor Daniele wanted to point out that it does say in here the time period is from January 18, 2022 to February 16, 2022 unless the ordinance is repealed by the Town Council. He asked Chair Piltch to speak to the teeth of this a bit and how he envisioned crafting it. Chair Piltch added that the two specific things that the draft before the Council mandates: 1) the owner or operator of a business needs to post a poster at the entrance in a window saying that masks are required. The other mandate is that individuals are required to wear a mask. Those are really the only two mandates in here. The owner has to post a poster and individuals have to wear a mask. For enforcement, he will let the Town Manager speak because he has had discussions with the Chief about it. His intent is that it is a graduated enforcement. The first time this happens, it will be would you mind putting a mask on please? The second time it happens it will be more of an educational approach. If we do need to call someone in to enforce it, it will be a) did you know we have an ordinance and it is not an ask anymore and you really need to wear a mask if you want to stay here. He doesn't believe that the day after we enact this that the Police are going to be writing \$500 tickets to anyone not wearing a mask. That was not the intent. The intent is for them to come and explain that we now have a mandate like Portland and Brunswick does and like South Portland is considering tonight and Bath will be considering tomorrow night. It is an education to try to encourage people to follow the mandate rather than a punitive start levying fines here and there. We do need to put some teeth behind it or otherwise it will be completely ignored. If somebody is habitually, intentionally and aggressively not complying, there is an option to levy some fines.

Councilor Daniele added that his girlfriend is a nurse in the Emergency Department and he can see the toll it takes on her when she talks about work. He does not like wearing a mask and doesn't think it is fun but if this is a way he can help the people trying to care for everyone and if the Emergency Department is normally an hour wait but right now is an 8-hour wait, that means we are all not getting care and our health care system is struggling. This is a gesture to everyone in our health care system saying we see what you are doing and whether it is the most effective thing or not, we are all at least thinking about it and we are showing our support. Perhaps people are washing their hands more because of it. He will be voting in support.

Councilor Bradley thanked whoever invited the hospital folks here today. For him, it put the significance and severity of our current situation in this community in stark profile. Mr. Joseph clarified that it is very timely that they were here but they asked to come on their own. Councilor Bradley thanked them for coming and asking to come. Because they were here, it put things in stark profile. He really respects and appreciates the people that are opposed. The people in front of us are some of our most respected business people and have made points. He wants to address a couple of them because he is not sure the points they raised. He started with Mr. Petrillo that it is ridiculous to have a business enforcing this. Councilor Bradley agrees with that but businesses are free to decide in their business how they handle the maskless person but you yourself have to observe it. Many people started speaking at the same time. Finally, Councilor Bradley stated that he heard what Mr. Petrillo had to say and feels that the ordinance deals with the concern he raised that he does not have to enforce this as a business. If it did, he would not support it after thinking about it. He wanted to give credit to Mr. Petrillo in this discussion. That is all.

Councilor Bradley wanted to say one more thing to Mr. Arsenault because he also respects him over the years, what he says and how he thinks about things. His concern is that kids can't wear masks. We can't make kids wear masks. It doesn't make sense. This does not apply to kids and he wanted to say that too. They are exempted from this ordinance. Chair Piltch advised that a separate Board makes rules for kids in school. Councilor Bradley wanted Mr. Arsenault to know that his point is given credit in this ordinance.

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He wanted to acknowledge it on the record. Mr. Arsenault was not at the podium so the Secretary did not capture his comments.

Councilor Bradley addressed the point that it was just a gesture. It is a clear indication that the leaders of this town who were elected by a lot of people, feel strongly because of the sorts of things the hospital folks said to us tonight, we should make something that enforceable. How we enforce it is like everything else. We have a speeding limit on the highway but people don't stop cars that are speeding and force them off the road. They don't even call the police. They just speed and is that just a gesture? He doesn't think so. He thinks most people are law abiding, even those that don't want to wear a mask. 85-90% of them will wear a mask that were not going to wear a mask but because this ordinance creates a law to do it. He thinks it will happen. There will be some that don't and what happens in those circumstances is a concern to him too. It may be that a business gets into a confrontation with a customer because of this. It may be that customers get into confrontations with customers because of this. Those are all good points but when he thinks about the whole thing, the situation we are in, the hospitals are in and our families are in, we are the leaders of this town and he feels it is time for us to say something firm and clear with all its warts and defects. He appreciates you coming forward and pointing some of them out but he will vote for this.

Chair Piltch advised that he hates wearing a mask. He is always grumbling about it but he recognizes why it is a good idea for him to do it so he does it. Our draft ordinance here is only for 30 days. If we don't do anything, it will expire February 16th. There is a chance we may decide to extend it for another 30 days but as for now, it is only for 30 days. Other towns are doing it for longer. We have the capability to do it for 60 days but chose to do it for 30. Like Jake said, we can repeal it. At another meeting we can say things are looking up, we don't need this anymore. We can get rid of it. One of the things that struck him as important is that we can request, ask, suggest or strongly recommend but there is a large contingent of people that will say if I don't have to, I won't. He thinks this is meant to address the bulk of those people. We will not get 100% compliance. If we are at 50% compliance now, and get to 70%, 80%, 90% or 60%, that is still better than where we are and it will help our population, our residents, the hospitals to be able to provide care. He has two relatives. One has been waiting for a joint replacement for months but because the hospital is overwhelmed with COVID, it doesn't have time to do his joint replacement so he is in two months more of pain. He had another relative who had a quadruple bypass delayed twice because the hospital didn't have enough capacity because they were dealing with COVID patients. He feels that is pretty serious and anything he can do in his position to help our health care system cope with this once in a lifetime event, he is going to do it. He gets that some people will be upset and angry but he feels it is his duty to do that and listen to the comments he has gotten over e-mail, Instagram and certainly by voice. Another thing he wanted to say is that while it is a personal choice if you choose to wear a mask, that choice affects other people in the room, in the store. It affects people that will wind up seeking medical attention so it is a personal choice but it is also a community choice. It is a choice we have to make as a community and not everyone is going to support that choice but it is one we must make for the community. He feels having the mandate in place will offer some comfort to people that are in stores and are uncomfortable approaching other people saying, would you please wear a mask? I am in a vulnerable position but I have to buy groceries so I have to be here and I would appreciate it if you would wear a mask. If the response is "I don't need to." That puts that person in an awkward situation and frankly it puts them in a dangerous situation. This gives them some comfort knowing they can make that same ask knowing they have somewhere to go if things don't go well in a polite way, there are other ways of dealing with it now. He did talk with a handful of business owners who all came back saying with one exception, thank you for doing this. It makes my job easier as a business owner. I don't need to convince people of my opinion. I can just point to this and say well this is the rule. I didn't make the rule but this is what the rule said. Thank you for doing that. I don't want to be in a position where you will come down on me or come down on the high school students I hire if they are not enforcing it harshly enough. Thank you for not making me do that.

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Councilor Daniele asked if there is a way to modify it slightly, could we just put in restaurants could choose to opt out if they put a sign up saying they have opted out and publicly disclosed that? Is that something the Council would be interested in because then it would be all of our choices to go into that facility. We all have to go to grocery stores but we all don't have to go to a specific restaurant.

Councilor Pillsbury said he appreciates the civility we are showing in part of the dialogue. We may not always agree but it is part of the process and he feels it is an important one that is being lost tonight. To Councilor Daniele's point he mentioned the employees that need to have that job but are unable to pick up and go someplace else. Councilor Daniele noted we have heard from our business community that this could be a problem and there is a group of people who would like to not have masks. Councilor Lawrence added that we should put a specific if we are going to pass this, you have to wear an N-95 and wear goggles. If you don't, you have a chance of getting this. He stated that masks do not work. He just lived through it. They were all masked but they still got it. He feels it is a nice gesture. It will be very costly and he thinks people won't come to town because of this unless every town around us does it and they have no place else to go. Councilor Daniele recalled the slide that was up from Mid Coast showed that if he was not wearing a mask near a person that had COVID, in 15 minutes he could get a high enough virile overload. If he was wearing an N-95 and they are wearing an N-95, it doesn't mean there is a zero chance he could get it. Of course, the virus still can get through if we are in a confined space for a long time. It is not unfathomable that people who live together over the course of two weeks, the virile load could be high enough that you could pass it along. Going to the grocery store, what is the probability that enough virile load gets through because the holes might be this big but there are also parts that catch. If he is at the grocery store and he is wearing this mask and everybody else is wearing this mask, he believes that for the hour he is there, he is very protected. More discussion followed.

Councilor Fournier added that he wishes the State CDC would come out with some sort of guidance so we would all have some sort of reasonable expectations to follow. Chair Piltch wishes that too so we wouldn't have to have this discussion. Mr. Joseph explained that he only has a few things he would add to what Chair Piltch has said. For enforcement, what will happen is indicated by what happened when this happened about a year ago. We had an active mask requirement in Town from the State which was enforceable and how that was responded to should be taken as an indicator of what would happen this time around. He did not think we wrote any individual tickets but there were several instances where education happened. The Police were called by shop owners primarily but also by some patrons who saw people not wearing masks indoors when they were required to. What is reflected in this ordinance is that there are still trespassing laws in effect and if a business owner wants to people to wear a mask, that is still enforceable. That will be a large part of enforcement this time around. As for public safety, there is not an expectation that these will be alpha one calls to drop everything if someone calls in a mask violation at Bow Street Market. The Police will respond every time there is a call but if there is something life or death going on that is different, that will take priority. If there is nothing on the list, they are going straight to the call. Will it add to the workload? Yes, but will it impact any life or safety? No. Will it be an impact to policing ability? No, it will not. Is it expected that tickets will be issued like hotcakes? No, it is not. The officers were given clear guidance a year ago on how to interact with people and how to not escalate scenarios over a mask or creating an issue when there is no issue. The only way it can escalate is when somebody refuses to leave a property and the property owner wants them out of the property. If a business owner doesn't want somebody gone and they refuse to put their mask on, they might be issued a ticket but may not be asked to leave the property. That could be one outcome. A lot of it will have to do with how a property owner wants the Town to respond to what is happening on their property. This is not a way we could go and Councilor Bradley hinted at it. It could be a lot more stringent but it gives the ability to enforce things if a bystander is concerned or a shop owner is concerned but it doesn't necessarily require it. He suspects there will be quite a few people reporting those things but it is not a mandatory requirement under this ordinance so it tries to strike a middle ground but there is a potential for

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conflict. Some business owners were very concerned that their employees are not comfortable having a confrontation with somebody. We are desperately trying to not make that happen. Chair Piltch asked if Mr. Joseph feels there will be added cost in scheduling more people on a Police shift than we do today? Mr. Joseph explained that this is not planned and if that became an issue, the Council would probably hear from the Police Chief or him. Chair Piltch advised that in Portland and Brunswick, they offered a version of a poster that business owners can download and print and then put in their windows. He would like to do something similar and if a business owner doesn't have access to download and print, we could have a few copies here that they could come in and pick one up. It might add some minor cost. Mr. Joseph mentioned that he is planning on doing a similar set-up if this goes forward tonight. He added that Brunswick's website has a one pager that you click on the banner at the top of the website that gives all the information about the mask ordinance. He would like to copy that template but add By Order of the Freeport Council instead of By Order of the Brunswick Council. Chair Piltch added that he wouldn't mind if all the neighboring towns used a similar looking poster. Mr. Joseph mentioned the dates in here were just a stab at effective dates and if the Council feels different, they can be modified. It is proposed to go into effect tomorrow with the posting requirement being a week from now. He thinks it was intended so it would do something quickly but understanding that businesses might not get the word out. The second argument is what if the word doesn't get out to visitors, too? That might require a bit of tweaking. The second thing is about the \$500 fine. He has heard from people in the community, business owners and Councilors that have read this. Is this the right amount? There is no right answer to that if the Council is comfortable with something smaller. We don't expect to be issuing a lot of these tickets but only in instances where there is an outright refusal to follow a directive. He may be worrying about something that is really not going to happen. This all relies on a judge saying that what we are doing is just and fair if we try to take civil action against somebody for \$500 and the judge might say it is only reasonable to impose a fine of \$100. Chair Piltch added that he hopes we issue zero summons for this and we never collect any money. He got comfortable with the \$500 because that is what the other towns doing something similar have done. That is where it came from but he is open for discussion.

Councilor Lawrence was not just talking about cost to the town but cost to businesses losing their workers or people not coming to town because they don't want to deal with a mask. He asked if there is a way to track how this is working? How do we track stemming the spread? This is why we are doing this so how do we know if we are being effective? Mr. Joseph advised that from an operations standpoint we can easily report how many calls we got. Councilor Lawrence interrupted saying he is talking about masks being on people and stemming the spread so if in the next few weeks, the numbers keep going up, are they wearing masks? Mr. Joseph noted that the problem is we don't know who from where is here and where do they go after they leave here. It is hard to make a scientific finding that we are being effective. Councilor Lawrence pointed out that it is fairly unenforceable and we can't track the effectiveness. Mr. Joseph explained that we would be lying if we said we could track the effectiveness with the resources we have now. Councilor Lawrence added that we are not encouraging, we are saying you have to. Chair Piltch feels we will achieve greater compliance but not 100% compliance. This is better than doing nothing in his opinion. Councilor Lawrence added that in his opinion, it is not.

Councilor Daniele asked if there any move to allow potentially places of business to allow their patrons and employees be maskless? He is crafting a restaurant because the people they are serving would not be wearing a mask. Why are we making the servers wear a mask? He is asking if the Council would be interested in doing that? Councilor Bradley advised that he is not interested in doing that. Councilor Fournier would like to see an option that gives the businesses a way to run their businesses appropriately. Councilor Lawrence feels the businesses should be allowed to opt out.

Vice Chair Egan appreciates Councilor Daniele's effort to try to find a narrow path to walk and would echo what Councilor Pillsbury said. He feels it is refreshing and encouraging sitting up here to know we

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can have a pleasant and cordial conversation treating each other with respect. He does not agree that there should be a place for a particular business to opt out because he doesn't believe we are in a position to decide where that line is. For example, what if the Art Gallery comes in and say, why do we have to have masks on in the Art Gallery? There are only four people in here at one time, or whatever the argument might be. He feels if we get on to the slope in deciding what business might be able to opt out, he thinks it puts us in a very difficult position saying why we say yes to them and no to others. He appreciates the challenges the two business owners brought forward. It has to be exceedingly difficult dealing with this. He does not have any expertise listening to the health experts. He is a community development finance person but in terms of how long the masks have to be on, he will listen to the folks who provided comments at the beginning of the meeting.

Chair Piltch advised that he is not comfortable adding an opt out clause because he feels it makes the mandate not a mandate. It makes the mandate more of a request which is where we are today. The other thing that would concern him is that it might backfire by encouraging people to come and make a point of not wearing a mask and encouraging people from other localities and say I want to support this idea of opting out in not wearing a mask which will have the opposite effect of our poster system we are trying to address tonight. If we attract many people to come to a place by saying they are taking a stand by choosing to not follow this mandate, we will have more people in the hospital, not less. Councilor Daniele thinks allowing anybody to opt out is not a good idea but if somebody can go in a restaurant and sit without a mask on, in his mind we are saying that the people who are not wearing a mask are the ones potentially affecting others means we are requiring the servers to wear their masks while their patrons are not. For him, that is the where it is getting weird. We are not getting arbitrary about it. The business activity says you don't have to wear a mask while you are in a public building so he doesn't know if the employees should. He is confused about this. To him, that is a clear stance. It is not wishy washy. If the person coming to patronize doesn't have to wear one, why are we forcing the employees to wear one. Chair Piltch noted that if there were a way to require people to wear masks while they ate, he feels it would be an interesting discussion to have but it is not possible. He feels there are certain categories that are excluded in this ordinance. If you are in a restaurant and you are eating, you are going to take your mask off so we have to make some allowances for that but he doesn't want it to become a slippery slope. The exceptions are limited to the people who are really unable to wear a mask.

Councilor Bradley **MOVED** the question and Councilor Pillsbury **SECONDED** it.
ROLL CALL VOTE: (6 Ayes) (1 Nay-Egan)

VOTE IN FAVOR OF THE MASK ORDINANCE AS WRITTEN: (5 Ayes) (2 Nays-Fournier and Lawrence)

Chair Piltch thanked the public and the Council for an effective debate.

WHEREAS, COVID-19 is a communicable disease that is easily contracted through personal contact with infected individuals in the community, and

WHEREAS, Cumberland County is currently designated as a county with a high level of COVID-19 community transmission, and

WHEREAS, the U.S. CDC is currently recommending people wear face coverings in public indoor settings in Cumberland County, and

WHEREAS, the Freeport Town Council voted to require face masks in all Municipal Buildings, and

WHEREAS, the Freeport Town Council wants to continue to protect the public health, safety and welfare of the entire community, including its residents, employees, and visitor's, and

WHEREAS, the Freeport Town Council determines that this warrants an immediate response in order to protect public health, and

WHEREAS, the Freeport Town Council further determines the current situation of the pandemic to be an emergency affecting public life and public health, as specifically included in Section 2.14 of the Freeport Town Charter, and

WHEREAS, in light of the foregoing, the Town of Freeport Town Council deems it proper and necessary to temporarily require the use of face coverings in all public buildings,

NOW THEREFORE BE IT ORDAINED:

That for the time period from January 18, 2022 until February 16, 2022, unless this ordinance is repealed by the Town Council prior to February 16, 2022, the following emergency regulations shall be in effect, and shall apply to any Public Buildings within the Town of Freeport.

Section 1. Definitions

For the purpose of this Ordinance, the following terms shall have the following meaning:

Face Covering means any cloth or tightly woven fabric that can be worn on an individual's face over their nose and mouth and substantially complies with the United States Center for Disease Control's recommended guidance for masks, such as surgical masks, N95 respirators, double-layer cloth gaiters, or any similar mask that fits snugly around the nose and chin, has multiple layers and/or inner filter pockets, and does not let light through when held up to a light source.

Person means any individual regardless of their status within a Public Building including but not limited to an employee, an owner, a customer, a licensee, an invitee, a visitor, or any other individual.

Public Building means any building or portion of a building within the Town of Freeport that is regularly accessible to the general public. For purposes of this Ordinance, a Public Building shall not include a private residence or a private residential unit in a building that contains multiple units, a public pre-school or K through 12 school (which remains under the authority of the RSU #5 Board of Directors), a church or other house of worship, and/or office space where the occupant(s) can be physically separated from the general public.

Section 2. Face Covering Mandate

(a) Starting January 19, 2022, any Person shall wear Face Coverings over their nose and mouth any time they are in a Public Building, within the Town of Freeport, unless otherwise excepted in Section 3.

(b) Persons must also wear Face Coverings over their nose and mouth any time they are using or operating public transportation conveyances, including buses, trains, taxis, rideshares, vehicles for hire, or any other ride services within the Town of Freeport.

(c) Persons inside a Public Building or portion thereof may temporarily remove their Face Coverings to participate in the primary purpose of the business, such as eating or drinking, only to the extent that such removal occurs at an isolated location, such as a table or booth, and that any Person who removes such Face Coverings must restore their Face Coverings as soon as their

activity is completed or to the extent that they traverse or move about the premises away from their isolated location.

(d) Persons using a pool and/or hot tub in a Public Building may temporarily remove their Face Coverings while actively using the public pool and/or hot tub in the Public Building. Any Person who removes such Face Coverings must restore their Face Coverings as soon as their activity is completed or to the extent that they traverse or move about the premises away from the pool and/or hot tub.

Section 3. Exceptions

(a) Any Person under the age of five (5), anyone with a medical condition that is complicated or irritated by a facial covering, anyone with difficulty breathing, or anyone who is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance is not required to wear a Face Covering.

(b) Any Person who is alone in a Public Building is not required to wear a Face Covering so long as they remain alone.

Section 4. Posting Requirement

Each Public Building and each separate business or separate premise within a Public Building must post signage at the public entrances and at such locations within the building in which POS (point of sale) or other transactions occur (such as cash registers), stating that Persons entering are required to wear face coverings by order of the Freeport Town Council. Signage requirements outlined in this section will have an effective date of January 25, 2022.

Section 5. Effective Period

This order shall be effective as of the date of adoption and shall expire in thirty (30) days after the date of adoption, unless otherwise re-enacted by the Freeport Town Council prior to such expiration.

Section 6. Enforcement

(a) The business and/or owner, operator, or their designee, operating any Public Building(s) as defined by this Ordinance, who does not post a notice of this regulation, in accordance with Section 4 of this Ordinance, shall be in violation of this Ordinance, and such violation shall be a civil violation subject to a fine of up to \$500, per day.

(b) Any Person who does not comply with Section 2 (Face Covering Mandate) of this Ordinance shall be in violation of this Ordinance, and such violation shall be a civil violation subject to a fine of up to \$500 per occurrence.

(c) Any owner, operator and/or their designee, and/or employee of any public building may contact the Freeport Police Department for assistance if such owner, operator and/or their designee, and/or employee wishes to remove a person from the Public Building when such Person refuses to comply with Section 2 of this Ordinance or leave the Public Building upon request. Any individual who refuses to comply with Section 2 of this Ordinance or leave the Public Building upon lawful request of the owner, operator and/or their designee, may be subject to trespass order and/or prosecution pursuant to the Maine Criminal Code.

(d) The Town Manager or their designee is authorized to institute or cause to be instituted by and through the Town Attorney, in the name of the Town of Freeport, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this ordinance. The Freeport Police Department is also authorized to enforce this ordinance.

Section 7. Conflict

In the event of a conflict between this ordinance and any law, rule, or regulation issued by the state or federal government requiring the use of face coverings, the more restrictive standard shall apply.

Section 8. Severability

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability does not affect the validity of any remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.

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| ITEM # 21-22 | To consider action relative to a request for Freeport Pownal Little League to construct a T-ball field adjacent to the existing Baseball Field. |
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Chair Piltch explained that this request came from the Little League to construct a T-ball field. Mr. Bliss, Town Engineer advised that he manages our wonderful assets and facilities with Pownal Road Fields being one of them. In this case he is the messenger between a request from Freeport Pownal Little League to construct a little league field at Pownal Road Fields. He reached out to some of the stakeholders and got endorsement for that request by Freeport Pownal Little League. In addition, the President of Freeport Pownal Little League has found a funding source to construct this field. That field will be from the far end of the parking lot adjacent to an existing ball field. Its dimensions will be Little League-sized for T-ball players. We are not concerned with balls flying 300 feet down the power line or into other fields, etc. This request comes out of need as Freeport Pownal Little League has been displaced from two of their existing fields and this rather under-utilized facility which we have invested money in over the years provides a great opportunity.

Vice Chair Egan feels it is a great idea and thanked Mr. Bliss for his presentation and the diagram. His only question is do the Little League folks anticipate that there could be concurrent games on this new projected field as well as the tired but existing little league field that is in place now? Mr. Bliss noted that they have had this type of discussion at the Hunter Road Fields. We have to define the problem if it is a capacity problem or a scheduling problem and in this case it is a scheduling approach. We will stagger practices and games so we don't have these conflicts. Freeport Pownal Little League manages all the scheduling and is well aware of that. Vice Chair Egan noted he is strongly in favor of this because he is aware of the fact that Freeport Little League has lost access to precious fields and that L.L. Bean has agreed to construct one but it will be a little while. This is great to get this installed at the Pownal Road Fields. Councilor Fournier asked what the maintenance plan will be once the field is built? Mr. Bliss advised that this facility is different from the hunter Road Fields because we don't have a defined policy or maintenance agreement with the RSU. All the grass cutting of the field is essentially handled by the RSU. They have been the predominant users of that field for football practices, football games and Middle School football games and some Lacrosse practices as well. He is not anticipating a responsibility by the Town in the near future. Councilor Fournier felt that was the right answer and thanked Mr. Bliss.

Councilor Daniele asked if there is any money that can be used to spruce up the existing field a little bit? Mr. Bliss advised that two years ago the Town partnered with the Youth Football League to invest \$30,000 in the whole football field which is inclusive of the baseball field. It was tired so we spent \$30,000 to improve the turf and the soil and amended it. It has irrigation so it has that going for it. Councilor Daniele asked if the baseball field received any of that? Does the baseball field get used very much now that it has the football posts in the outfield? Mr. Bliss noted it has been his experience that the

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Freeport Pownal Little League does a lot of maintenance to their fields. They do it by volunteer work and they do it because they are passionate and they have a great leader of that organization who cares. Councilor Daniele noted he lives across from that field and it doesn't appear it is as well maintained as the Hunter Road Fields. Mr. Bliss explained that Hunter Road Fields are immaculate and there are a lot of Maine towns are envious of how well we maintain the Hunter Road Fields facility. That field is a lot of newer and has a very sophisticated drainage system and beautiful care given to it. Councilor Daniele mentioned that when we build this, it will not help the little league field that is there currently? Mr. Bliss advised that not through this specific request but if the Council would like, he would reach out to the President of the Freeport Pownal Little League or can put the council in touch with him. Vice Chair Egan added that the current field is used as practice space and is what they are trying to add capacity for and reserve the games for the really nice stuff over at the Hunter Road facility.

Mr. Joseph advised that it goes back to the fact that those were maintained at a cost to the Town by the RSU. They were significant costs but if we want to add something that looks like that, it costs about \$150,000 a year to make those fields look that way. It would probably cost half for Pownal Road since it is half the square footage but that range is what you are looking at. Councilor Pillsbury speaking as a parent of a child who played last spring, the fields are used all the time and they had a lot of practices there with multiple teams and the space is really needed. He thinks it is a good idea. Chair Piltch added that he has two kids that played on every field in town and he can second it. Mr. Bliss added that greater utilization of this facility that abuts the Hunter Road Fields facility is a convenience for parents. Fewer parents have to go from way across town to pick up one child or when there are conflicting practices and they can't be in two places at once. There is a grander vision to this to make these adjoining fields better utilized.

BE IT ORDERED: That the request from Freeport Pownal Little League to construct a T-ball field adjacent to the existing Baseball Field be approved.
(Fournier & Lawrence) **VOTE:** (7 Ayes) (0 Nays)

Mr. Bliss advised that he can't wait to pass this message along he can't wait for warmer weather to play some baseball. Chair Piltch thanked the Little League. He feels they are a fantastic organization and very dedicated.

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| ITEM # 22-22 | To consider action relative to adopting the Cumberland County EMA Mitigation Plan. |
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BE IT ORDERED: That the Cumberland County EMA Mitigation Plan be adopted. (Lawrence & Fournier)

Fire Rescue Chief, Paul Conley explained that he provided a memo to the Manager and it should be in the Council's packets to address some of the issues raised when we met a couple of weeks ago such as questions on climate control issues raised by Vice Chair Egan. The County Plan definitely has an interest in that. He tried to explain some of the questions Councilor Bradley raised on financial impact. He introduced Margaret Cushing from the County EMA as Chief Planner and architect of much of this large document. She will help answer questions. The risk for us to not participate is having to write our own mitigation plan which is hours and hours of work. We would have to submit it to FEMA for approval and the potential loss of some funding that would be available to us for pre-mitigation.

Chair Piltch thanked Ms. Cushing for being patient and sticking round until 8:45. She thanked the Council for considering this this evening. She noted she owed the Council an apology because in the first round when Councilors read it, they did not see Freeport in the Plan. That is because they went through

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about 15 iterations and every time they did it, they had to cut and paste and nobody caught the fact that two towns were missing from that. This Plan is a requirement of the Federal Emergency Management Agency every five years and the County assumes responsibility for doing these plans in Maine because we know that the towns do not have the time or resources to put in to writing these plans. It took her office about 18 months to do this so there are hundreds and hundreds of sections of the plan that are very specific regulations that need to be adhered to. They offer this to Freeport as an opportunity for you to come and get a free ride and say yes, this plan is acceptable to you and the biggest thing it will allow you is if you need pre-disaster mitigation funding, and that includes a lot of climate change actions. She knows Freeport participates in a Ten Town consortium that is working on climate change. There are plenty of projects Freeport derive from that that could very easily be part of pre-disaster mitigation funding. She would hate to see Freeport miss out on that. You could avoid missing out on that by approving the plan, you can write your own plan but understand that if you choose to not approve the plan, that is for five years and that is how long this plan stands with FEMA. While they will work with Freeport in every possible way they can, FEMA is the one that says if you don't approve the plan, you don't get funding. She wanted to say that they really want to help you in the mitigation process. They really want you to have the funding for it. They are willing to work with Freeport on grants. They offer Freeport everything they possibly can but it is contingent on your signatures. Ideally, she would like to walk away from here tonight with the template in your hands that has signatures from everyone here. That would be fantastic.

Councilor Fournier advised that in his previous life, they worked with the County and always adopted the Plan. If his memory serves him correctly, the Hunter Road culvert was used in a mitigation plan because of flooding down in the dip. They worked with the County so that trout could swim up through. It was done a number of years ago. He also believes the Desert Road culvert was also used by the plan. The Chief does not have the time to put a plan together and we shouldn't add any more to his plate. The County has always done a great job and we should support this with a unanimous vote tonight.

Councilor Bradley added that he has no idea of how much funding we are in danger of losing or gaining. Ms. Cushing advised that it is called Building Resilient Infrastructure and Communities. That is the new pre-disaster mitigation funding using climate change as an example. If you decide to build a jetty, then you can get probably 85-90% of the studies, engineering and the work funded by FEMA instead of having to fund that by yourselves. Ms. Cushing advised Councilor Bradley that there are millions and millions of dollars available but she could not tell him exactly the amount that is available. Councilor Bradley asked how soon we have to apply? Ms. Cushing advised that this funding cycle ended in December but the next funding cycle when you decide what you want and you develop your plan, bring it to them and they will work with the Maine Emergency Management Agency to help Freeport get into the next cycle of funding. Councilor Pillsbury asked if towns have opted out and what happened to them? Ms. Cushing advised that no town has opted out. Chair Piltch added that he found it to be a fascinating document. He read almost all of it and there is some really interesting stuff in it. He thanked Ms. Cushing for making the effort to put it together and feels it is something we can ride on her coattails on and would be happy to do that.

VOTE: (7 Ayes) (0 Nays)

Chair Piltch thanked Chief Conley and Ms. Cushing for coming in and explaining it all to us. Vice Chair Egan asked Ms. Cushing to wait five minutes and the Council would get her a signed copy.

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| ITEM # 23-22 | To consider action relative to appointing Christine Wolfe as the Freeport Town Council Secretary. |
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BE IT ORDERED: That the appointment of Christine Wolfe as Town Council Secretary be approved. (Daniele & Lawrence)

Chair Piltch noted that there is a memo in our packets for this one as well. He mentioned that he was worried when Sharon left us but he is thrilled that we have someone willing to take on the onerous task of following us around and writing down what we say. Mr. Joseph explained that the official duties of the Council Secretary are outlined in the Charter Ordinances and are actually split between the Clerk's Office and the record which is what Sharon has done but there is a verbatim record which is the recording of the meeting that is kept by the Cable Department. Chris does the notices for the meeting so it is split up three ways and this will put two of those three duties in the purview of the Clerk's Office which he thinks is great. Chris is not sure this will work out so she has asked for a trial period. For many different reasons she is not sure the Council will be happy with her Minutes and we are not sure she will want to keep doing it. She is not sure she can stay away past 8 o'clock at night because she sleeps 8 to 4. These are things we are going to test out for the next 4-6 months or. So, if everything goes well, you will see Chris at your meetings and if there are any reasons it doesn't work out, we will just hire a minute taker. If that happens we will come back to you and let you know. He is really happy that Chris is volunteering. Chris added that if it works out, that's great but if it doesn't, it at least buys you some time. Chair Piltch thanked Chris for offering to do that. He also thanked Sharon who was waving to the Council He wished she were here in person so we could thank her in person. It has been a valuable thing she does and a testament that we never had much concern to change the minutes. Well done and thank you very much.

VOTE: (7 Ayes) (0 Nays)

Chair Piltch welcomed Chris and wished her luck staying awake.

ITEM # 24-22 To consider action relative to Public Peddler Renewals for 2022.

BE IT ORDERED: That the following Public Peddler Renewals for 2022 be approved.

1. Lily Perilla d/b/a Guilin Goodies
2. Dale Baker d/b/a Nick and Noah's (Bradley & Lawrence)

Town Clerk, Christine Wolfe explained that we have four public peddler spots in Freeport and these are the two people that were there last year. These two vendors were behind Starbuck's. She wanted to point out that some of the documentation we need is missing. Dale is not going to complete his unless he gets the spot that he desires, so if he gets that spot in the lottery, he will complete the insurance binder, etc. Please know that we don't issue these until we have all the documentation that we need but the applicants sometimes hold back pieces until they are assured of a good spot.

Councilor Bradley asked why the Council is considering this if the application is not complete? Ms. Wolfe advised that the applicant is not going to get insurance but this has to come to the Council for renewal because there are dates in the ordinance that require us to bring new applications and renewals to Council in January. There is a certain timeframe. Councilor Bradley did not have his microphone on. Ms. Wolfe explained that if you have an applicant that applies, then he even gets into the lottery. If he doesn't complete his application process, get his insurance and pay his fee, that spot is open on a first come, first served basis. We are not out anything. This applicant has paid \$110 in a non-refundable application fee just to come here to the Board and say I am interested in having my spot again this year. Councilor Bradley asked if his doing this is keeping anybody else from getting into the line for this spot. Ms. Wolfe said no because the renewals have first dibs and then we open it up for new applicants. She advised that

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there were only two and we have had no new applicants and they have until the close of business on Thursday and theirs would come to you at the next meeting. He is just a renewal interested in staying a renewal. If he doesn't complete his process, that spot is open on a first come, first serve basis. Mr. Joseph asked Ms. Wolfe if there is anything besides the five items he listed is missing? Ms. Wolfe advised that both applicants are waiting for their background checks and Dale will purchase insurance after the lottery. Chair Piltch clarified that this is the correct order. We grant the commercial license and she gets the insurance, parking, Victualer's and then she gives them the paper. Ms. Wolfe added that the two desirable spots are behind Starbucks and there are only two applicants so we are fairly sure that he will get it and will complete the process unless someone comes in before five o'clock on Thursday.

VOTE: (7 Ayes) (0 Nays)

ITEM # 25-22 To consider action relative to extending the sunset date of the Social and Racial Equity Ad Hoc Committee from October 20, 2021 to October 20, 2022.

BE IT ORDERED: That the Social and Racial Equity Ad Hoc Committee's sunset date be extended from October 20, 2021 to October 20, 2022. (Egan & Daniele)

Vice Chair Egan explained that this committee was comprised by Council action in December of 2020 and initially had a one-year lifespan on it. The committee started out with 16 members, several of which left the group for various reasons, mostly because they couldn't find the time over the course of 2021. A small but active group finished the primary task the committee identified which was a review of the HR Policy presented to the committee from Assistant Town Manager, Judy Hawley. A list of recommendations and some updates but mostly syntax and inclusive language was included in that recommendation as well as a change in the Table of Contents to make it a little more readable. Those comments were submitted in November. The committee has an interest in continuing because there are more policies and documents to review. They only had that one as a chance to review as well as wanting to move forward with additional education and communication issues which was not specifically outlined in the organizational purpose of the committee but has been clarified by the committee itself. He would like for the committee to continue meeting. As the liaison to that committee, he has an interest in seeing it continue and so he is asking for that action this evening.

Councilor Lawrence noted it has already sunsetted. It was 2021 and it is now 2022. Vice Chair Egan agreed. He is asking for a retro decision to move the sunset to October 2022. He explained that this committee is specifically interested and has tangible community interest from what he can gather. There are 5 or 6 people that continue to gather and meet to focus on the issues that potentially are still existing in Town documents in terms of potentially having out of date language, non-inclusive language and potentially implicit racial bias in some of the assumptions about how the Town does its business. He doesn't know what they are because he hasn't examined it all yet. The other purpose the committee would like the committee's existence to continue to be a communication channel for members of the public to come forward if they have experienced something or witnessed something that is related to racial equity and racial bias. That is part of the reason they want to continue for another year. Councilor Lawrence clarified that this is not for police action. It is something different and Vice Chair Egan agreed. He added that there is a channel for handling complaints in place. There was some conversation about the way some people were described and categorized and so that is updating the language. Another area focused on by the committee was hiring practices and does the Town encourage a diversity of candidates for positions/ Mr. Joseph noted that a lot of the things they found he would not say were racist language but they sure found a lot of sexist language because the entire code of ordinances for the Town was generated in the 1970s. He used to play a game with our former Police Chief about who could first find the police chief or

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his designee in every single ordinance because no one ever dreamt of the day when they were writing these ordinances that the gender would be different. He feels it is helpful to him and Judy to have a set of eyes looking that over because there are 30 or 40 pages. The transition to *they* solves almost all of those problems. Councilor Pillsbury feels the work the committee is doing is great and he would like to see it extended. Is the charge broad enough to continue the work Vice Chair Egan is talking about? What is the aim long term for this? Is there something we should be thinking about now: Should it come back to us in the summer?

Vice Chair Egan explained that it is structured year to year is because when it was first formed, the Council at that time made a decision to put it on an annual basis so it was not in perpetuity as a standing committee of the Council. There were some laser-focused tasks that the group undertook that first year and there were some challenges in getting participation on that committee from a number of different factors but there is now some additional people coming forward that want to participate in it because there are members of the public coming forward saying we all think as white people in this town that there are no racial issues and no glaring issues of inequality in our community but he can tell you that there are. There has to be some kind of channel for that to come forward and at least having a committee to talk about this issue is one way to have those voices be heard. If there is an issue, this committee can bring it to the Council. He does not feel that the charge to the original committee is too constricting at this point. Councilor Lawrence asked how diverse is the group. Vice Chair Egan mentioned that it started out with 16 members, 9 of whom were non-white. The group finished the year with 5 members and 2 of whom were non-white so there is an active effort to solicit some more input on the committee from non-white members of our community. Those folks are stepping forward. Councilor Lawrence asked that since it is social, is it diverse in that way, too? Vice chair Egan answered that it is.

VOTE: (7 Ayes) (0 Nays)

Chair Piltch thanked Vice Chair Egan for the work he does on this committee and asked that he forward his thanks to other members on the committee for the work they have been doing.

Chair Piltch explained that we have two items that have been moving in tandem from one agenda to the next. Item #194-21 and Item #195-21 both relating to Shoreland Zoning. The second one is a map that goes with the ordinance.

Caroline Pelletier, Town Planner explained that unfortunately due to other projects, the Planning Board has not made as much progress as we had hoped. At this time, she requested that the Council table this for another month to give them some more time to work on it. She has been contacted by a few residents that will be impacted by changes if they were adopted by the Council, this would allow them to go forward and do projects so we do have some people watching this and wanting us to move forward so it definitely is a project they need to get back to working on.

Chair Piltch advised that February 15th is a month from today so is that they are requesting? Ms. Pelletier mentioned that with the Vision and the Downtown Design Week, it will be tight but if they are not ready, they can bump it out another meeting. Part of this was workshopping with Chair Piltch and Councilor Bradley to go through and see if there are things we want to approach DEP on and if we have any leeway or some reconsideration ability on certain standards. She thinks some of the timing will depend on those discussions.

Councilor Bradley asked Ms. Pelletier to remind him on his recollection at the last committee meeting we talked about breaking out Shoreland Zoning from the Ordinance and dealing with it as a separate stand-

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alone ordinance and she was going to have the consultant work with her on that and then we were going to bring it back to the Council. He asked if he is wrong? Ms. Pelletier noted that he is correct. They took the initial steps of trying to pull it out but part of it is not only pulling it out and looking at what we can do and which ones we can look at, but also we have to clean up what is remaining in the current Zoning Ordinance and check all cross references. There is a pretty involved project but yes, Councilor Bradley is correct, we are looking at a stand-alone Zoning Ordinance. Councilor Bradley added that is what they are thinking about potentially bringing to the Council in February or March. Ms. Pelletier agreed and advised that they would get it drafted up and the next step would be to meet with Chair Piltch and Councilor Bradley to go through it and see what we want our next steps to be and whether or not it needs to go to DEP for input and then back to Planning Board or the Council.

Given all the work that still needs to happen, Chair Piltch recommended moving it out to at least March 1 which hopefully will give applicants time to do things before the summer but gives us a little more time to do what we need to do and then have a meeting with us and then bring it to Council.

MOVED AND SECONDED: To table Items #194-21 and 195-21 to March 1.
(Lawrence & Daniele) **VOTE:** (7 Ayes) (0 Nays)

TABLED FROM OCTOBER 19, 2021:

ITEM # 194-21 To consider action relative to amendments to the Freeport Zoning Ordinance pertaining to State mandated Shoreland Zoning regulations. Text amendments are proposed to the following sections: Section 104. Definitions; Section 201. General Restrictions; Section 202. Non-Conformance; Section 203. Changes and Amendments; Section 302. Zoning Map; Section 303. Zoning District Boundaries; Section 304. Map Corrections - Shoreland Zone and Resource Protection District (to be repealed); Section 401. Purpose and Land Use Controls; Section 402. Rural Residential District I and Rural Residential District IA; Section 403. Rural Residential District II; Section 409. Commercial District I; Section 422. Industrial District II; Section 426. Island District; Section 507. Shoreland Zone Regulations; Section 601. Enforcement; and Section 602. Site Plan Review. Some additional non-substantive text amendments are proposed throughout the Ordinance to correct typographical errors and to incorporate gender-neutral pronouns.

BE IT ORDAINED: That proposed amendments to the Freeport Zoning Ordinance pertaining to State mandated Shoreland Zoning regulations be approved. Text amendments are proposed to the following sections: Section 104. Definitions; Section 201. General Restrictions; Section 202. Non-Conformance; Section 203. Changes and Amendments; Section 302. Zoning Map; Section 303. Zoning District Boundaries; Section 304. Map Corrections - Shoreland Zone and Resource Protection District (to be repealed); Section 401. Purpose and Land Use Controls; Section 402. Rural Residential District I and Rural Residential District IA; Section 403. Rural Residential District II; Section 409. Commercial District I; Section 422. Industrial District II; Section 426. Island District; Section 507. Shoreland Zone Regulations; Section 601. Enforcement; and Section 602. Site Plan Review. Some additional non-substantive text amendments are proposed throughout the Ordinance to correct typographical errors and to incorporate gender-neutral pronouns.

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ITEM # 195-21 To consider action relative proposed amendments to the Official Zoning Map for the Town of Freeport (pertaining to Shoreland Zoning).

BE IT ORDAINED: That proposed amendments to the Official Zoning Map for the Town of Freeport (pertaining to Shoreland Zoning) be approved.

Note: The boundaries of the Shoreland Zone, as regulated by State law, will be updated. Many areas previously designated as Resource Protection 1 are being amended to "shoreland area". Areas within coastal flood plains will remain in Resource Protection however will not be shown on the map, as the boundaries will be based upon the FEMA (Federal Emergency Management Agency) Flood Insurance Rate Maps, as adopted by the Town Council.

OTHER BUSINESS:

1. Discussion of Water Tanks

Mr. Joseph advised that he has a document that he handed out with answers to a lot of the questions that have come up. He has notes from some residents and some Councilors. He offered to go through some of the supporting information. The original construction costs to the taxpayers for Bow Street Tank was \$225,000 in 1972-1974. The Winston Hill Tank was at no cost. It was primarily grant funded with local matches provided by the Sewer District and by the donation of the land to the Town by the Water Company. The Town is all in \$225,000. What were we paid back from Consumers Water and Maine Water Company? Of that \$225,000 the Town was paid \$43,000 until approximately 2000. In 2000 the Town had begun to generate lease revenue from the exterior of those tanks and the Town forgave the debt to Maine Water at that time. The Town said we are making so much money off this at this time that we don't need the money from the rate payers. It was a decision the Town made in 2000.

We got a question about industry norm for rent from a tank. Mr. Joseph noted this is a very tough one because it is not a common thing to have happened. Utilities generally own their tanks so the reasons why you might have a tank owned by somebody and operated by another party are pretty much limited to scenarios like this and are really weird. He wouldn't want to say there is an industry norm because it shouldn't happen this way in the industry which is why they want us to get rid of the tanks and give them to them so it does become the industry norm.

Revenue received by the Town for ownership of the tanks? We don't have good records prior to 2009 but we switched financial systems in 2009 and have records since then. We generated \$3,148,540 in revenues since 2009. The estimate moving backwards looking at the old records was \$159,000 a year before that. We would have to go back to the records to determine when the first lease was signed.

Mr. Joseph can tell the Council that it is probably closer to \$4M that has been generated off those tanks. None of that would have been generated if the water rate payers financed the tanks. It would have all gone to support the water rate payers instead of the General Fund. We spent \$225,000 but generated \$4M off the tanks.

Where was it stated that it was the intent of the Town to turn over the tanks to the Water Company? Mr. Joseph feels this is an interesting question for local government geeks like him to research. In 1972 there was an agreement between the Board of Selectmen. The Selectmen were authorized by Town Meeting to

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negotiate with Maine Water so they made this agreement. No. 10 on this agreement said: It is the intent of both the Water Study Committee and the company although the Town is not formally authorized to contract in this respect, the ownership of the stand pipe should be transferred for nominal consideration from the Town to the company at the termination of the lease. Mr. Joseph explained what a stand pipe is. What they meant by that is they don't have authorization because they were not a Legislative Body at the time. They were an Executive Body as the Selectmen so Town Meeting would have had to authorize that but it was the intent of the Selectmen to bring something back to them, which they did. It was brought to the Town Council at the termination of these leases. However, for two reasons they were not renewed. One is that the Town decided to build a second tank and utilize a similar type of agreement where the Town utilized federal grant money which was how Winston Hill was constructed in the 90s. That is why they didn't do it in the 90s and transfer it back. In 2000 they started to get the Telecom revenue and as he mentioned before, the former Town Manager did a really good job of looking out for the Town's finances and basically said, we are not going to go down that route. Let's renew this for another 20 years because the Town did not want to give up the leasing revenue. How was that changed? The Water Company said it didn't want the leasing revenue and the Town could take the exterior of the tanks and lease it in perpetuity as long as these tanks stand to your heart's content, they just want the ownership of the actual facility.

Again, Mr. Joseph feels the Town made the right decision not to transfer it and get the leasing rights to it. Maine Water Company has since changed their tune and are fine transferring it without the leasing rights if that stands in the way. That is why things are different and Mr. Joseph is here talking to the Council.

The expected lifespan of the assets, both of them are over 80 years and that translate to one more painting cycle. The painting happens every 20 years. Mr. Joseph will put this up on the website.

The value of the assets: the Town currently appraises them at \$400,000 for Winston Hill and \$665,000 for Bow Street and that is the value we would levy a tax on if they are transferred to a private owner. They are currently non-taxable because they are a municipal facility. That is what we say they are worth right now. Maine Water Company has told us there are 945 active accounts right now. More customers are served but do not have hookups for example, vacant parcels that are not built on yet. There are also roughly 100 fire services that are non-metered so they pay a rate yearly for that.

What would happen if the Town performed a public takeover of the Water Company assets? Mr. Joseph noted this has been in the back of his mind since this process started. He discussed this with Rick at Maine Water, the way that those values are calculated, it is from the rate payers' perspective and the value is automatically zero if it is an asset given or transferred into the system. This is by the PUC rules and there is no variance allowable here. If they don't put out rate payer money on the purchase of the asset, it is worth zero in a public takeover. There would be a great value placed on all the pipes, pumps and everything else in the system but not the tanks.

Would the cost of water increase? The cost to the rate payer would only increase if there is a cost to them to purchase it from the Town. Why transfer these tanks now from the Town's perspective? Maine Water has agreed to allow leasing which is the biggest single financial consideration of this whole thing which wasn't on the table 20 years ago. The existing agreement expired as of December 31 so if we are not going to go ahead with this, he needs to at least renew an agreement for one year or 20 years, whatever we want to do. Maine Water will continue to pay all maintenance costs because they will operate the facility so there is no cost to the Town. Maine Water is responsible for the future replacement of the tanks because it is likely to be the negotiated outcome if something were to happen to a tank or fail or a replacement needed to be made in 40 years. It is not guaranteed if we are holding the tank. It would be negotiated between the parties. It could be really messy. It is not a position he would like to leave the

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Town in 40 years from now. There would be some tax benefit from it that we are not collecting right now but it is not enough to make a decision on but it is an added bonus.

The question was who owns Freeport Water? Freeport Water was the original company and was always privately owned. It was owned by Consumer's Water of Maine at the time when all these agreements were put in place in 1972 and has been acquired by Maine Water Company who serves 11 additional communities besides Freeport, Maine. There are four public utilities owned by this public utility company. It is a U.S. company but it is a conglomerate water company. They have always been a private corporation.

Structural valuation performed on the tanks, they look at them yearly two or three times but Mr. Joseph does not have access to those reports but he could request them. They do evaluate them but in the off chance we become aware of a problem before they do, we call them and they have an engineer that is here as they have for years and repair the tank. We do not regularly check it. Dan's neighbors call us if there is a problem. They have an Internet control system and they are remotely monitored all over the place.

Councilor Fournier asked if they took over South Freeport? Mr. Joseph advised that they operate under contract to South Freeport for the operation and the billing. Councilor Fournier asked if they are trying to take that system over? Mr. Joseph advised that they wouldn't take it over but they are happy with the contract and service they have. Councilor Fournier recalled that there used to be an operator who lived in town and would respond on second alarm fires and open valves to get more water flow. He asked where are we on that? Mr. Joseph advised that they do not have anybody that lives in town. There is an engineer that runs a couple or three districts in southern Oxford County. A lot of the system is computer controlled but not everything.

Councilor Lawrence asked what happens at the end of the life of these towers? If they are replaced, do we still get the revenue from the towers and do we still own the outside if they are replaced? Mr. Joseph advised that it is not contemplated. On one of the parcels where we are retaining the land, it will be an easy negotiation. The other one on Bow Street there is no guarantee 40 or 50 years from now. The only way around it is if we owned it and commit to rebuild it in 40 or 50 years. That is what we are giving up potentially.

Councilor Daniele asked if we could include that we will give this to you but if any other existing tanks get built in Freeport by you, we want to be able to utilize the exterior. Mr. Joseph added its replacement on that site would probably be the easiest way. Mr. Joseph was not looking to grow but maintain would be good and we can talk about it for sure. Councilor Fournier added that we never thought we would have a Winston Hill but there has been talk about expanding up to North Freeport. He asked if we could put something there that would allow us to use a new tank for cellular or communication so we could continue with our current revenue stream like we have with our two. He wonders if they would be open to that? Mr. Joseph noted it is money but he doesn't know if they could have all of our future money. Vice Chair Egan asked what would be the economic incentive to pay for the whole new tank and give us the cellular revenue? Councilor Fournier did not know. It would probably not make economic sense for them. We have been very fortunate to do what we have done with cellular but there would be no incentive for a private company. Mr. Joseph added that he would not sign that deal if he was in those shoes. It is kind of how the calculus is done when you build a new tower and how much you can offset through the uses and stuff like that. He provided examples.

More discussion followed. Councilor Bradley advised that they are asking us to transfer the ownership of the water tower to them. Why are we giving them something for nothing? We already have the revenue stream from the outside. We know they are going to continue to use this for their rate payers and make the

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money they want even if we keep it. He is thinking that a taxpayer is going to ask him why he voted to give away the water tower that has some value to them for no return to the taxpayer. He does not know the answer to that question and none of this what we might negotiate helps him get there. Mr. Joseph explained the whole reason we owned them in the first place was to save money for the rate payers. The whole reason we took on that ownership, took on the loan for one and the grant financing for the other one was to save money for the ratepayers. We asked for that money from the ratepayers. That is coming straight from the ratepayers. That is how it is calculated. Councilor Bradley asked if there is some value they are asking us to give them and we are considering giving it to them for nothing other than to continue a right we already have. Mr. Joseph advised that we are giving it so we won't have to build a \$5M, \$20M or \$30M water tank in 2050 when it comes up for replacement.

Councilor Bradley asked why is the decision not to convey title to these water tanks preclude them or us from building a tank whenever a replacement is required? Why does our decision not to convey ownership of these tanks mean that we will have to build a replacement when replacement comes up? Mr. Joseph advised that it is certainly guaranteed that if we are not holding the tank, we are not in the discussion. Councilor Bradley noted fair enough but there is no requirement if we give them the ownership of these tanks that they are going to replace them in 50 years. Councilor Pillsbury added that it is also the ongoing maintenance and liability. We would have to pay to paint it and repair it. Mr. Joseph advised that the reason we don't pay for it now is that it is in the agreement that expired in December that they will do all annual maintenance. They may continue to do that or they may want a different conversation about it if we go forward. Councilor Bradley mentioned he is just trying to figure out how to explain to somebody that we gave somebody something but didn't get anything for it. He is still not hearing it but is open to hearing it. Councilor Lawrence tried to clarify it.

Vice Chair Egan asked since the contract expired, do we have any iron clad assurance that we get to keep the cell tower revenue if we charge them a fee? Mr. Joseph advised that it is the only thing we will get iron clad assurance because we own it. The ongoing maintenance costs and the replacement costs are not iron clad. They are negotiable. The only thing we can dictate is we own the exteriors of those tanks just like we own the inside of them right now. The question is do we want to continue to own the insides? Vice Chair Egan asked what the annual revenue is on the cell towers? Mr. Joseph advised that it is close to \$300,000 now. Vice Chair Egan noted we get to keep \$300,000 a year in revenue and the maintenance and liability of the replacement tank or we get to keep the \$300,000 in revenue and get rid of the liability and replacement costs.

Councilor Bradley added that Vice Chair Egan says we get rid of the liability and replacement costs but we wouldn't do it. It doesn't mean that they have to do it just because we gave them ownership of these tanks. It still doesn't answer his question of why we give it to them for no money? Chair Piltch pointed out that the maintenance is not insignificant and Mr. Joseph added that we are talking about hundreds of thousands a year for two tanks together probably. Chair Piltch feels if we don't give it to them, they may ask us to maintain them ourselves. Mr. Joseph mentioned it would become a much more drastic cost on the ratepayers. His question is what is the benefit to keeping them? He understands the question of asking for money if there is a negotiated price for some reason that we want the ratepayers to pay the taxpayers, he doesn't understand why that it is. The only reason we got into this in the first place was to save money for the ratepayers. If we want to milk the ratepayers now for this instead. Councilor Bradley noted he does not want to milk anybody. He is looking if there is a value for these assets we are considering transferring? Only the ratepayers use them. None of the people in his district or many other districts use, so is it fair to ask the whole town to pay for the value they use? He thinks there is at least a reasonable question there but he doesn't know what the answer to it is. He would like to know what the value would be and make some sense of that and then we can talk through the other issues.

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Councilor Fournier advised that he receives a benefit from the ratepayers because the hydrant on Bow Street is within a 5-mile radius from his home and he receives a lower insurance premium. He asked if we give them the tanks and we expand the system and go higher on Winston Hill, can we add more cell service to Winston Hill if that tank goes higher? Will that be part of the agreement we are going to have? If we are going to give away these tanks and maybe they come out with a new stand pipe 40 years from now and make the stand pipes bigger than here. He wants to have the access for communications in perpetuity. Mr. Joseph feels it could be negotiated and believes he could have that conversation. Assuming the technology stays the way it is, it is likely that radio or some sort will be required so he thinks it is a good assumption that we would at least want it for the same reason we want to retain the land since it is the highest land in town even if water tanks aren't a thing in the future, towers might still be and we might need to use that.

Chair Piltch asked Councilor Bradley if there is a benefit to the people in his district for not having a vibrant town burn down for lack of water? He thinks it is a benefit to everybody having hydrants up and down Main Street to protect it.

Mr. Joseph added that the closest he can come to this is looking at the financials. We built a \$150,000 asset with \$75,000 in finance fees and saved the ratepayers \$75,000 at the time in extra finance fees because they would have paid double on the market. That is what this whole thing was about. They paid us back \$43,000. That is really what the taxpayers expected. We are talking about what we expended on behalf of the rate payers. Because we did that, we are making millions of dollars extra that we never would have made before so in his opinion, we just hit red on a 14-color roulette table. It shouldn't have happened but we got lucky. If we want to go after the ratepayers for what the tax payers are owed, we can do that. It is a legitimate policy point if we want to charge the ratepayers for that \$180,000 difference but to him it seems like we ended up \$3.9 when you take into account those first ten years or close to \$4M in the positive. Understand that ratepayers' rates will go up and we will have to justify that. Probably 500 of those are in District One. It is not wrong to ask for the money back, however, it is really relevant on the scale of \$4M to talk about whatever that \$180,000 would be in today's dollars. Somebody at the time wanted to do a handout. Somebody in 2000 also agreed that Maine Water could stop paying us rent because we were doing so well off the returns. Chair Piltch advised that it strikes him as being greedy to ask for more when we have gotten so much out of this already and we will continue to get it. It strikes him that it is the fair thing to do to give them the tanks. Others agreed and Councilor Bradley gave up. Mr. Joseph advised that he will bring back the documents that our attorneys have been working on with the proposed transfer agreement at the next meeting. It sounds to him that to get this deal done, that might be something they would want to throw in. Councilor Lawrence feels we need to get this going so we can get the antennas on by the summer. We need to do that now, not April. Chair Piltch requested that anyone watching to please not shoot holes in the water tank. Mr. Joseph feels there is still some question about the details.

MOVED AND SECONDED: To adjourn at 9:53 p.m. (Egan & Lawrence) **VOTE:** (7 Ayes) (0 Nays)

Respectfully submitted,

Sharon Coffin, Council Secretary

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| | OUTSTANDING OR UPCOMING ACTION ITEMS | INITIATED ON | PROPOSED BY | ADDITIONAL INFORMATION |
|------------|--|-------------------------|---------------------------------------|-----------------------------------|
| #1 | Review of Town fee schedule this year | 1/4/2022 | Councilor Pillsbury | Tasked for 2022 |
| #2 | Research availability of PCR Rapid Test | | Councilor Bradley | |
| #3 | Schedule dates for touring facilities | | Chair Piltch | |
| #4 | Institute Indoor Town facilities Mask Policy | | Town Manager | |
| #5 | Determine how much is reasonable to keep in reserve accounts | | Councilor Bradley | |
| #6 | Set process for how we are going to accept applications for ARPA funding before summer | | Chair Piltch | |
| #7 | Determine if our Capital Reserve Budget is properly funded and we have a proper schedule to set our budget priorities | | Councilor Fournier | |
| #8 | Review our codes and permitting processes in Town Hall | | Chair Piltch | |
| #9 | Break out Shoreland Zoning from Ordinance | | Chair Piltch/Councilor Bradley | Tabled |
| #10 | Resolve Water Tank contract | | Mr. Joseph | |
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END OF AGENDA (Estimated time of adjournment :00 PM)