

MINUTES
FREEPORT TOWN COUNCIL MEETING #21-19
FREEPORT TOWN HALL COUNCIL CHAMBERS
TUESDAY SEPTEMBER 3, 2019
6:30 p.m.

	PRESENT	ABSENT	EXCUSED
John Egan, 38 Curtis Road	x		
Scott Gleeson, 23 Park Street			x
Eric Horne, 62 Pine Street	x		
Henry Chip Lawrence, 93 Hunter Road	x		
Douglas Reighley, 2 Harbor Ridge Road	x		
Sarah Tracy, 2 Pettingill Road	x		
Tawni Whitney, 56 Baldwin Road	x		

Chair Tracy called the meeting to order at 6:33 p.m. and took attendance. She mentioned that Vice Chair Gleeson is excused this evening. All other Councilors were present along with 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 #19-19 held on August 6, 2019 and to accept the minutes as printed.

MOVED AND SECONDED: To waive the reading of the minutes of Meeting #19-19 held on August 6, 2019 and to accept the minutes as printed. (Reighley & Horne) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

THIRD ORDER OF BUSINESS: Announcements

Councilor Egan announced that on September 14 there will be the first annual Freeport Folk Festival held at Wolfe's Neck Farm at their main farm property from 10 a.m. to 7 p.m. It is a free event with suggested donations. If anyone likes folk music, old time music, Blue Grass music or anything with acoustic instruments, please come down. Hopefully it will become the first of a series of long-standing concerts down there.

Chair Tracy announced the following:

- **Reminder that the Districts 1 & 2 Workshop** will take place on September 17th at 6:30 p.m. at the Freeport Community Center. The Regular Town Council Meeting will follow the workshop.
- In an effort to recognize our dedicated Board and Committee volunteers, the Town Council will be holding a **Volunteer Recognition** reception at the Town Council Chambers on Tuesday, October 1 from 6:00 p.m – 6:30 p.m. This evening will provide the Town Council with an opportunity to show

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

our appreciation of your commitment and contributions to the Town of Freeport. Please RSVP to Johanna Hanselman (jhanselman@freeportmaine.com or 865-4743 x120)

- **Nomination papers** for all town elected positions must be turned in by the deadline date of 6 p.m., September 11th. For more information, go to the Town's website or call Town Clerk Christine Wolfe at 865-4743, Ext. 123
- **2019 Election Absentee Ballots will be available beginning October 8th, 2019.**
- **The Appointments Committee is seeking residents interested in serving on Town boards and committees.** There are vacancies on the **Cable Committee, Shellfish Commission and the District 2 Rep for the Active Living Committee.** Forms are available at the Town Office and can be downloaded via the Town's website at www.freeportmaine.com.
- **Two More Weeks of Free Camping are available for Freeport Residents at Winslow Park from September 14th – 29th.** For more information call 865-4198.
- **The Freeport Conservation Trust is once again sponsoring the Freeport Trail Challenge!** Passports are available at Town Hall and the Community Center. For more info go to freeportconservationtrust.org, email info@freeportconservationtrust.org or call 865-3985 x 212.

FOURTH ORDER OF BUSINESS: Information Exchange

Councilor Reighley explained that he attended three out of the four meetings he was scheduled to attend with the first being the workshop put on by the Maine Municipal Association on marijuana, the laws in the State of Maine and a presentation by a new group being formed so that the State is in a position to regulate the laws that have been passed. He felt it was a good exchange by over 200 participants. He suggested that for people not satisfied with the information they have on the laws and what is taking place in the State of Maine, they go to the Maine Municipal Association's website and review the items before we have any further discussion before Council. That was on the 21st.

This morning he attended the first meeting of the Complete Streets Committee. They had a really good presentation that looked at future plans. One of the things in discussion was how we could make the passage over 295 more accessible for pedestrians and bicyclists. A group that studied it provided the results. The majority of the group at the meeting this morning favored the conclusions which are to attempt to widen both the bridges at Mallett Drive and Desert Road so that pedestrians can walk on those. Another point of discussion was the extension of the Beth Condon Walkway from Yarmouth that will come to the Cousins River Bridge and then they are looking at a pathway from the Cousins River Bridge to the Y. This will be the start of a process that will eventually build a pathway that will come into part of Freeport. They also discussed in our Ordinance that we have a provision that states that with new development, a walkway has to be created on their property line and it is being discussed at Planning and Project Review and for the Council to look at it and see if we need to rescind that sidewalk provision. It still might tie in with what will take place with the pedestrian and bike pathway that will be going along Route One as it is.

He and Councilor Whitney just attended the working group regarding our Refuge Resettlement and what we are doing in the town. It was a very constructive meeting and a resolution will be coming before us which will indicate what is being done but we are also not using or requesting any Town funding. We will have three families here which is more than our percentage share. Councilor Whitney advised that one of

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

the families coming here is already volunteering in the French Department at the High School. They are looking forward to moving in and calling Freeport their home fairly soon. They are being hosted by families in Freeport.

Councilor Horne advised that Active Living met a few weeks ago and got some new members with a lot of new and refreshing ideas, enthusiasm and also an interest in integrating with the Complete Streets Committee. The question came up about Freeport's future with the folks of Active Living as well as the folks on Complete Streets because it is really about making Freeport more livable, walkable and more bikeable. The relevance of that committee when it was started has become more relevant as they start mapping out the future days for Freeport.

Councilor Egan advised that the Ordinance Committee met last week. The two items on the agenda were a proposed suggested draft text of an amendment to the Ordinance for the possible regulation of Short-Term Rentals. The context of that are homes being rented out for overnight, up to less than 30 days. The other item was the street regulation ordinance and that has largely to do with modifications, openings, fees, when streets can be modified and opened after they have been rebuilt. The direction was that the staff was going to work on some of the suggestions and edits and bring it back for further review. The short-term rental ordinance is an item for discussion on tonight's agenda.

Chair Tracy advised that she attended two Appointments Committee meetings in the last three or four weeks. Most of the results are on our Consent Agenda. They made lots of appointments. They recently made appointments to the Shellfish Commission which she will add tonight. They have been active on that front.

FIFTH ORDER OF BUSINESS: Town Manager's Report

Mr. Joseph reported:

Freeport Public Safety Open House

The Freeport Public Safety Open House will take place on Wednesday, September 18, 2019 from 4:30 p.m. to 7 p.m. at the Public Safety Building at 4 Main Street. Join our Police and Fire Departments, along with many community public safety partners, for an evening of family friendly education and entertainment.

Watercraft Noise Update

On Thursday, August 22, 2019 Town officials met with representatives of the Maine Attorney General's Office, the Department of Inland Fisheries and Wildlife (DIF&W), the Department of Marine Resources (DMR), staff from Speaker Gideon and Senator Carson's offices, and the State Representative and Town staff from Harpswell (where there have been complaints recently as well, to a lesser extent than in Freeport.) The intent of the meeting was to try to clarify the limits on municipal regulation contained in the current law, and the status and current interpretation of existing state laws on watercraft noise by the various state enforcement agencies.

From the outset of the meeting, it was apparent that the state officials in attendance were well aware of the extent and the scope of the issue and the complaints that airboat noise have generated recently in Freeport and elsewhere, which they have also been receiving.

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

The following key pieces of information were determined after discussion and generally agreed to by all present:

1. Municipalities do not have the ability to regulate boat noise by ordinance at the local level. Municipal police can enforce existing state laws on the operation of boats, including noise laws.
2. State law (Title 12, section 13068-A (10) established a noise limit for motorboats of 90 decibels under a stationary test and 75 decibels under an operational test. Both levels require the measurement of noise levels to be performed according to testing protocols established by the Commissioner of DIF&W through administrative rulemaking procedures.
3. DIF&W has established, earlier this summer, a testing protocol for stationary noise tests. Due to the fact that an airboat creates the majority of its noise through the use of its “fan” or propeller while underway, even an extremely loud airboat would be likely to pass the stationary noise test at a level of 90 decibels.
4. DIF&W has not established an operational testing protocol for measuring noise while a boat is moving. Absent the establishment of this testing protocol, it is not practically possible to cite any motorboat from violation of this 75-decibel operational noise level.
5. Both DMR and DIF&W expressed concern at the meeting that an operational noise test, if enacted for the existing 75 decibel operational noise level established in the current statute, could have the effect of putting all airboats (including properly operating airboats) out of legal operation. Therefore, a statutory change to establish separate permissible operational noise level specific to airboats may need to be considered.

Representatives of DIF&W who were present at the meeting did not have the authority to commit the Department to a specific course of action, but did agree to take the information they had received back to the Commissioner’s Office and discuss whether the Department would be willing and able to either 1) undertake a rulemaking procedure to establish an operational noise testing protocol, which would be applicable to all motorboats, or 2) research and/or suggest the consideration of a new statutory mechanism to specifically regulate noise created by airboats.

Earlier today, I received a follow-up communication from the Commissioner of the DIF&W that indicated that her Department intends to work with the DMR to start an administrative rulemaking procedure, which is intended to include a public hearing in the Freeport/Brunswick area. This will be a several month-long procedure. Chair Tracy felt it was a well-attended meeting. She feels it is important to know where we stand and be able to refer people to the appropriate place.

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

There were no public comments provided. The Council moved on.

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

ITEM # 134-19 To consider action relative to adopting the September 3, 2019 Consent Agenda.

BE IT ORDERED: That September 3, 2019 Consent Agenda be adopted. (Egan & Reighley)

Chair Tracy explained that the Consent Agenda has a group of appointments on it and she wanted to add two additional appointments to the Shellfish Commission, one for Jared Lavers and one for Malcolm

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

McIntosh for the same term September, 2019 to February 15, 2020.

MOVED AND SECONDED: To amend the Consent Agenda and add two additional appointments to the Shellfish Commission, one for Jared Lavers and one for Malcolm McIntosh for the same term September, 2019 to February 15, 2020. (Tracy & Reighley) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

ITEM # 135-19 To consider action relative to proposed amendments to Chapter 25: Subdivision Ordinance Town of Freeport, Maine regarding the new use of "Subdivision-Commercial Open Space" and other minor amendments. PUBLIC HEARING

MOVED AND SECONDED: To open the Public Hearing. (Lawrence & Reighley) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

Chair Tracy explained that this is a continuation of an item from the last time the Council met. She invited Caroline Pelletier, Interim Planner to remind the Council and inform the public what we are doing.

Ms. Pelletier explained that this is the second half of the Public Hearing that was held last month. The items before the Council tonight pertain to amendments to the Freeport Subdivision Ordinance. There are four definitions which mirror what the Council approved last month to the Zoning Ordinance. There is one change to the performance standards that would allow 15 dwelling units on a dead-end road. There is language to add the new use and also a village open space which was inadvertently omitted previously to the four steps process and it was recommended by the Planning Board when it held its public hearing. Chair Tracy mentioned that the Council has an August 27 memo from Ms. Pelletier identifying those changes and the Council also reviewed them the last time but did not vote on them because of the issue of notice.

Councilor Reighley asked if anybody is opposed to this that they speak first. There were no public comments provided.

MOVED AND SECONDED: To close the Public Hearing. (Lawrence & Reighley) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

BE IT ORDERED: That the proposed amendments to Chapter 25: Subdivision Ordinance regarding the new use of "Subdivision Subdivision-Commercial Open Space" and other minor amendments be approved. (Lawrence & Reighley)

Councilor Horne asked if at any point the question of affordable housing comes in since we are changing the ordinance here. Ms. Pelletier noted that we currently do not have any ordinance provision to encourage affordable housing. It is not addressed currently. Chair Tracy mentioned that as a policy, the Council has taken action to encourage affordable housing. We had a land deal with Habitat for Humanity that was centered around affordable housing. Ms. Pelletier agreed that the town did some projects with affordable housing and the Freeport Housing Trust but we do not have any ordinance in place with extra measures. Developers are here tonight that can hear Councilor Horne's comments but we cannot make them put in affordable units.

ROLL CALL VOTE: (6 Ayes) (1 Excused-Gleeson)

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

ITEM # 136-19 To consider action relative to setting a public hearing for amendments to the Freeport Zoning Ordinance, (Section 104, 426, 507) pertaining to the Island District.

BE IT ORDERED: That a public hearing be scheduled for September 17, 2019 at 6:30 pm at the Freeport Community Center, 5 Depot Street to discuss amendments to the Freeport Zoning Ordinance, (Section 104, 426, 507) pertaining to the Island District.

BE IT FURTHER ORDERED: That copies be distributed equally between the Town Clerk's Office, the Town Manager's Office and the Freeport Community Library for inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 3 and the Town's website. (Horne & Reighley)

Interim Town Planner, Caroline Pelletier explained that back in March the Council approved some Zoning Ordinance amendments in the Island District. This was an applicant-driven Zoning Ordinance request that went through the proper process of hearings at the Planning Board and then to the Council. Since it did affect Shoreland Zoning because of where the properties are located, after the Council took action, they sent the language to DEP for review hoping it would come back with their blessing. In this case, they conditionally approved the language finding but there were some inconsistencies and some clarifications that were needed to make the language compliant with State Shoreland Zoning which is why the language is back before the Council. One change required is to add a definition and provision for individual private campsite which is a specific term in the Shoreland Zone and they wanted us to add it in so that it is clear that the rustic campsite definition they added before was different. The second thing is when the change was made previously, there used to be restrictions on the number of piers, docks and wharves one could have on a parcel. It was taken out when Shoreland Zoning only allowed one per parcel so we had to put that back in. During the public hearing process, thankfully in the way we advertised it, we heard from the owners of Crab Island. They purchased that island a year ago and went to put in a dock and discovered they were not allowed to do that. They asked the Planning Board to consider striking Crab Island from Section D-2 and adding it to D-1 to enable them to follow the process to seek approval for a dock. There were only two people who spoke on this at the public hearing. She mentioned that the Town of Freeport has not updated its Shoreland Zoning Ordinance in accordance with State law. One of the pieces missing is the definition for individual private campsites which is a permitted use in the Shoreland Zone. Because we don't have that in there but we should, the DEP wanted us to put it in now to be clear what needed to be in there for the Shoreland Zone. Everything but the Crab Island reference was sent to us by the State. The private campsite language would have been incorporated when the Council revisits the Shoreland Zoning language which was previously at the Planning Board but is currently being worked on.

ROLL CALL VOTE: (6 Ayes) (1 Excused-Gleeson)

ITEM # 137-19 To consider action relative to setting a public hearing for repeal of a Retirement Community Overlay District, Tax Assessor Map 23, Lots 43, 45 & 49 originally approved October 17, 2006.

BE IT ORDERED: That a public hearing be scheduled for September 17, 2019 at 6:30 pm at the Freeport Community Center, 5 Depot Street to discuss the repeal of a Retirement Community Overlay District, Tax Assessor Map 23, Lots 43, 45 & 49 originally approved October 17, 2006.

BE IT FURTHER ORDERED: That copies be distributed equally between the Town Clerk's Office, the Town Manager's Office and the Freeport Community Library for inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 3 and the Town's website. (Whitney & Reighley)

Interim Town Planner, Caroline Pelletier displayed a map and explained that the Council sent the request to the Planning Board after receiving a petition signed by residents in the Pine Street neighborhood for the Council to consider repealing an existing Retirement Community Overlay District. Freeport has two of them with special designations previously approved by the Council to enable a high-density retirement community. In this case, she pointed out the parcels involved. The Planning Board did notification and held a public hearing on the request to repeal. They did recommend to the Council that the repeal be adopted. There is specific language which is in the Council's handout as to when it can consider a repeal. In this instance, the project has not been built out and they have let any valid approvals lapse. There are none in place for this project. We heard from a handful of members of the public in support of repealing this district. Because it wasn't very clear and is a unique situation, she consulted with the Town Attorney and he suggested that in the best interest of the town, would be to follow the standard ordinance procedure as we would any other map amendment. It did go to the Planning Board through their public hearing process with their recommendation before it came to the Council tonight. She pointed out that if this gets repealed, what would remain unchanged.

Chair Tracy asked if the development owner was notified. Ms. Pelletier advised that the owner was notified by mail as well as e-mail. She was in contact with them about another matter and they were aware that a petition had been received but she has not heard from them on this matter. She explained what the notification requirements are in the Ordinance.

ROLL CALL VOTE: (6 Ayes) (1 Excused-Gleeson)

ITEM # 138-19 To consider action relative to a Use of Town Property request by Tinkergarten for use of Leon Gorman Park.

BE IT ORDERED: That the Use of Town Property request by Tinkergarten be approved. (Reighley & Lawrence)

Mr. Joseph explained that this request is for a children's event to be held at the park. We do not have a set procedure. People have held many commercial events in the park but have never reserved it. Our established policy for use of Town property is that only reserved use would be allowed exclusive use. If you want to have a wedding in the park and you don't want to go through the process of reserving the park and doing all the formal process, you can still have your wedding in the park but someone might be playing frisbee behind you. You can't tell them that you are having a wedding, because you did not reserve the park. This request would be for exclusive use of the park for dates of the fall classes and they are about one hour, 15 minutes each. He pointed out that we do not have a fee schedule for parks. This is similar to a wedding reservation in the Town park. We can establish that in the future if the Council wants, but typically there has not been a lot of applications for reserved use of the park. Councilor Horne asked if they are reserving the whole park. Mr. Joseph assumes that they are using the big grassed part of the park and not the whole park. He mentioned that it doesn't say what part of the park they are requesting to use but it was described to him by our town Clerk.

Chair Tracy wants to make it clear that they don't get the whole park. The request is for Leon Gorman

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

Park and the use is exclusive so we need to specify what part of the park is exclusive because there are walking paths and things that townspeople use. Mr. Joseph indicated that this is a fair condition that can easily be placed on this.

Councilor Reighley noted that it is indicated that the age group is 18 months to 8 years and the dates they are planning on reserving are Wednesdays so it could present a challenge if children are supposed to be in school. Mr. Joseph mentioned that if the Council would like to designate a certain specific part of the park that they can use, and they are free to roam the rest of the park like other members of the public, he is sure that would be satisfactory. The alternative is nothing if the Council doesn't give them a specific area.

MOVED AND SECONDED: To amend it to grant the use of a portion of Leon Gorman Park which would include the picnic pavilion and the grassy area between the picnic pavilion and the Bow Street property. (Tracy & Reighley)
VOTE: (6 Ayes) (1 Excused-Gleeson)

ROLL CALL VOTE on use of Town property as amended: (6 Ayes) (1 Excused-Gleeson)

Chair Tracy noted that she would delegate discretion to the Town Manager if that location is not what they were looking for and to further amend the location as long as it is reasonable and it allows for other reasonable public use during that period of time. Mr. Joseph noted that if it is an issue, he will bring it back.

ITEM #144-19 Not on the agenda currently but Chair Tracy placed a resolution recognizing the Freeport Flag Ladies who are retiring this year on September 11 after standing on Main Street for 18 years waving an American Flag.

Chair Tracy read the resolution into the public record.

BE IT RESOLVED:

WHEREAS, Freeport residents Elaine Greene, Carmen Footer and JoAnn Miller are popularly known locally and nationally as the Freeport Flag Ladies; and

WHEREAS, the Freeport Flag Ladies have commemorated the lives of those lost and the lives of the heroes of the 9-11 tragedy for the past eighteen years by consistently standing on Main Street in Freeport proudly displaying our country's colors; and

WHEREAS, the Freeport Flag Ladies have expanded their mission to include actively supporting our troops; and

WHEREAS, the Freeport Flag Ladies have invited all people to join them in honoring those affected by 9-11 and supporting the brave men and women who serve in our military; and

WHEREAS, the Freeport Flag Ladies have shown dedication and support to our troops by seeing them off at Bangor International Airport when deployed and meeting them when they return; and

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

WHEREAS, the Freeport Flag Ladies have further supported our service members through the provision of support packages, photographs, gifts, cards and letters; and

WHEREAS, the Freeport Flag Ladies have provided countless hours of support and dedication to the honor of our country and its troops in heat, rain and frigid weather conditions; and

WHEREAS, the Freeport Flag Ladies have been recognized by the State of Maine and the United States for their patriotism and have brought recognition to the Town of Freeport, both locally and nationwide; and

NOW THEREFORE, BE IT RESOLVED, that the Freeport Town Council hereby recognizes and commends the Freeport Flag Ladies for their unwavering patriotism and volunteerism.

Dated this third day of September, 2019, by the Freeport Town Council:

MOVED AND SECONDED: To enter the resolution into the public record.
(Tracy & Reighley) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

Chair Tracy requested that all Councilors sign the resolution and all use the same pen. She will be presenting it at the September 11th ceremony and all Councilors are welcome to accompany her.

OTHER BUSINESS:

1. Discussion of request from Adam Morse d/b/a Underdogs on the Run, to relocate his Public Peddler Cart.

Chair Tracy explained that the Council has a letter dated 8/19/19 from Adam Morse and a memo attached on the back from Town Manager, Peter Joseph. The Council also has a memo on the dais from Adam Bliss, the Town Engineer.

Chair Tracy explained that she had a discussion with Adam Morse because there are two public peddler carts located within 5-7 feet of each other and they happen to be selling the same core items. That is just where the public peddler locations were set by the Complete Streets Committee and then there was an original option in who got to choose and in what order and it just happened that way. The first development was that we adopted the power to change the location for a good cause by a majority vote of the Council and now the request has been made by Mr. Morse to move in front of the old Bartol Library. She asked staff to look at the request and she asked Mr. Morse to work with staff.

Mr. Joseph explained that this is pretty simple to digest. One thing they looked at is that the recommendation is to locate it on the sidewalk if the Council chooses to in front of the building and not on the property. We generally make applicants who operate out of the right-of-way go through site plan review for the parcel. For consistency, this has been done. He provided examples. When it locates on private property, it has a separate review mechanism. Where both of the carts behind Starbuck's are actually on a paved area adjacent to a Town-owned parking lot unlike the former library building, which has an approved site plan which does not include a cart location. That being said, it was measured out and our Town Engineer had concerns but he was not a hard "no" or a hard recommend. The key for success in that location would be to manage the crowd and he is pleased that Mr. Morse is here so he can talk to us and hear from us. There is sufficient space for him to place his cart but the question will be the crowd. If it doesn't work, we have the ability to change it but Mr. Joseph feels we should give it a shot to see if it does work. He explained that for permanent use, it would likely have to go through the staff review

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

process. A small amendment could be handled administratively but it would still be a formal application process to the Project Review Board, Staff Review or to the staff depending on the scope of what we are looking to do. It would also be temporary until a use is found for the property which would involve negotiation between the Town and the tenant.

Chair Tracy pointed out that she sees this as a temporary request and then it goes back to Complete Streets as to whether they want to locate a peddler cart there. Next year it will go back to Complete Streets so she sees this as a very short-term thing. Mr. Joseph explained that the Police Chief can shut down the operation but he does not see it happening. Councilor Horne added that he does not want to create a situation where we have a potential tenant for that building that gets turned down by having carts in front of it for the long term. If we are trying to solve a short-term problem for this season then he is a little more flexible on where that line is. Mr. Joseph mentioned that a tenant would have no input on what happens in the right-of-way so there is a good distinction there but they may have no interest in occupying the building if they have an aesthetic aversion to a cart operating there.

Councilor Egan asked if Mr. Joseph had any discussion on whether the cart itself could be on the sidewalk but the operator might end up standing on the front lawn of the Bartol Library to provide a little more leeway. It might move the cart off the sidewalk a little bit and it would be perfectly reasonable.

Councilor Reighley pointed out that we have other approved sites that have not been filled and one of them is in front of Town Hall. He asked why it is not being used. Mr. Morse advised that there is not much foot traffic coming by here at Town Hall. He does not know what is going on at Winslow Park. He described his menu. He explained how his cart would be turned at the Main Street location and he would stand on the short side of the cart.

Mr. Joseph explained that the chair of Complete Streets is on vacation and he was planning to contact him so the opportunity was missed and they have not commented on this. They did consider Main Street locations and chose not to put any of them in three years ago when we relocated that spot behind Starbuck's from Bow Street. He is not saying that they wouldn't approve this location but it wasn't their primary choice.

Councilor Reighley as liaison to Complete Streets, would personally, being a voting member on that committee, find that he doesn't think there would be any problem with the Council allowing movement of this cart to the location Mr. Joseph has described on a temporary basis for the remainder of the season. Mr. Joseph suggested that Complete Streets reconsider their decision to relocate two public peddler carts in close proximity.

MOVED AND SECONDED: To relocate on a temporary basis, the spot that is currently occupied by Mr. Morse d/b/a Underdogs on the Run to the spot on the easterly side of the walkway in front of the Bartol Library Building. (Tracy & Reighley) **VOTE:** (6 Ayes) (1 Excused-Gleeson)

2. Update on discussion of proposed Short-term Rental Ordinance.

Councilor Egan explained that two months ago, as Chair of the Ordinance Committee, he received a draft of an ordinance along with the Council Chair and Town Manager, of suggested language we might consider for regulating short-term rentals in Freeport along with thoughtful and researched positions taken from ordinances in other communities as well as other states. The essence of that was for recognizing the impact in residential neighborhoods of transient commercial activity of renting out your house using typically on-line platforms for advertising your home for either nightly or weekly rentals. These are not

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

your typical rent your house out for a year lease. They had some discussion about it at the Ordinance Committee and heard from the public who were involved or at least supporting the presentation of that draft language. Recognizing that it is not a brand new issue, previous Councils have heard from B & B owners in Freeport to consider potential regulation of short-term rentals. The essence of the potential language is to start with what would be considered a registration process for any homeowner who is renting out their home either nightly or weekly under certain definitions of what short-term rentals are and also making a distinction in that registration process between posted and non-posted meaning residents who are staying in their home while they rent it out or are nearby. There was some discussion about an arbitrary distance of a certain number of miles. The distinction being a Freeport resident who in an effort to help with expenses and particularly paying taxes, could rent out their home for a certain amount of weeks during the year to help raise revenue to help with property taxes as opposed to a non-hosted where the home is owned by someone at a great distance as an investment property strictly for earning income on the short-term rental use. There was a fair amount of discussion about some of those suggested regulated items in the draft presentation. He and Chair Tracy discussed that it was a considerable enough change that we might want to hear more from the public, particularly property owners as well as current and potential participants in the short-term activity to schedule a public hearing. So, before they did that, they wanted to advise the Council the direction of where the Ordinance Committee is going.

Chair Tracy added that they also discussed getting feedback from towns that have already gone through an ordinance process. Some have been successful and some have been problematic in trying to learn from their processes. They discussed South Portland, Rockland and Cape Elizabeth who have all sorts of different types of ordinances. The proposed ordinance is most akin to the Cape Elizabeth ordinance. They also asked for copies of the ordinances that Joyce Veilleux had gathered and so we are putting together a packet of those ordinances so we can take a look at them. They include ordinances from Maine and also ordinances throughout the country. Should the Council get past the threshold question of wanting to regulate short-term rentals, they would like to have a better sense of what would be the appropriate level of regulation.

Councilor Reighley noted he would support having a public hearing on this and would also support inviting representatives from the Bed and Breakfast industry so we wouldn't just be isolated to the position of Freeport's Bed and Breakfast owners but would get an overall opinion from the State. There are other governing bodies within the State that may be able to send representatives to talk about short-term rental situations.

Chair Tracy asked members of the public to voice their opinions.

Eric Blanchard of 16 Sandy Beach Road noted he and his wife are here to express ongoing concerns about the commercialization of the shore property. He understands that this is an overstatement but he wants to represent their strong and continuing reservations. They have skin in the game and their skin is that it has been a quiet residential neighborhood in their 20 plus years they have lived there. Lately they have had to deal with some commercial trade there now in the form of rentals. Their next-door neighbor who is largely absent owner has given use of their property to a relative. The relative assured them last spring that the property drowned when a water pipe burst and was being remodeled and reconditioned for the use of relatives. They have had a couple of rental neighbors in the past several weeks. He has not had an opportunity to learn if they were family members. These individuals have been quiet and have not offended the neighborhood in terms of any noise. They have been renting the property for a per night figure.

Mrs. Blanchard advised that the one property her husband mentioned is clearly posted on Air BNB. With the constant turnover every night, every three nights, five nights, they have seen the renters. They know

COUNCIL MEETING #21-19
SEPTEMBER 3, 2019

the figure it is rented for. It is not for family use. They have no problem with a year-round lease because then they would have neighbors. While they have not been objectionable people but it might as well be a hotel on the water in the amount of nights it is being rented. They suspect another property on the road is being advertised. It is a short road and if two or three properties are being used as short-term rentals, it changes the character of the neighborhood. Sandy Beach Road is where town residents learned how to swim. They would welcome a public hearing. Mr. Blanchard noted he would like very much to know what is in the draft law that is being considered. Mr. Joseph offered to give him one.

Chair Tracy noted that what was drafted was drafted by a citizen. It is for consideration of the issue but doesn't necessarily reflect an ordinance that the Town would adopt if it decides that short-term rentals might go in that direction but it could go in an entirely different direction. It was proposed by residents to start the discussion. The comments received at the Ordinance Committee were while the changes we made to the Noise Ordinance allowed for increasing fines for violations and also fines to the property owner not just the offender, while that is helpful, it does not solve the issue of the disruption internally. Issues regarding parking and trash, who to call, etc. the ordinance also requires having a local representative that you can call who is responsible for the property. We haven't done a full investigation but this certainly covers things not covered by the Noise Ordinance. One issue we will be considering if the Town moves in the direction of regulating short-term rentals, we have to enforce it. In order to enforce it, we have to have a cost recovery mechanism for the time it would require to enforce it so that is a significant issue in her mind. It is no small undertaking.

Councilor Reighley asked if the fines imposed by the Noise Ordinance are retained by the Town. If we did something in regulating short-term rentals, he asked if we could do the same type of fine structure. Chair Tracy mentioned we could do that but there is also some type of registration structure where someone pays a registration fee, which again would be an additional expense to those residents who use their property as a source of income which the Town may decide is appropriate given the activity but it is something not to take lightly.

MOVED AND SECONDED: To adjourn at 7:58 p.m. (Reighley & Lawrence)
VOTE: (6 Ayes) (1 Excused-Gleeson)

Respectfully submitted,

Sharon Coffin, Council secretary