

**MINUTES**  
**FREEPORT PLANNING BOARD**  
**FREEPORT TOWN HALL COUNCIL CHAMBERS**  
**WEDNESDAY, SEPTEMBER 6<sup>TH</sup>, 2023**  
**6:00 PM**

**Attending:** Andrew Arsenault, Robert Ball, Rose Mary Burwell, Wayne Jortner, Chair Sam Kapala, Mitch Rouda and Cecilia Smith, Assistant Planner.

Anna Child advised that she has resigned but is participating from the sidelines this evening. Mr. Ball advised that this will be one of his last few meetings because he is moving to Brunswick.

Chair Kapala called the meeting to order at 6:05 p.m.

**ITEM I: Information Exchange**

1) Update on Comprehensive Plan RFP

Chair Kapala advised that the Comprehensive Plan RFP was closed on August 23 and we received four applications from local firms: Principle Group, North Star Planning, View Shed and GPCOG. We are going through them and there will be an interview process that happens next week. We will be looking for a couple of members of this Board and a couple members of the Project Review Board who are interested in attending those interviews. There will be four of them because it makes sense to interview everybody. They all had strong applications from reputable firms we know already. The interviews will be 60 minutes but they are not yet scheduled just because they know it is a commitment. He and Ms. Pelletier will work together and try to get them scheduled tomorrow. If anybody is interested, Chair Kapala advised they can either say yes, right now or think about it for a few minutes. He clarified that Board members would have to do all four and they cannot pick and choose.

Mr. Rouda noted he is interested in seeing the responses. Chair Kapala believes they are public but he doesn't know where they can be found. He thinks they are public. Ms. Smith offered to check on them. Mr. Rouda added that before the selection process is made, he would like to think Board members would have a chance to look at them because it does matter and there would be differences in approach. Chair Kapala pointed out that Ms. Smith will figure out where to find it on the Town's website and when it needs to be if it isn't already. The goal is to choose one of those applicants so the Town Council can either vote at their last meeting in September or barring something we haven't thought about yet, at the first meeting in October. We have those two options and we are trying to move as quickly as we can. Mr. Rouda asked if there will be a selection committee? Chair Rouda advised that that is what the interview process will be, the selection committee. Mr. Rouda advised that he feels it should be established who will be on the selection committee. Chair Kapala pointed out that at last night's meeting, Councilors Lawrence and Egan raised their hands so he is assuming it will be them as well as Ms. Pelletier, Ms. Smith, two members of this Board and two members of the Project Review Board. He is hoping to do it but would be happy if we have two members that are super excited to do it. We are trying to get it done quickly and because it is a four-hour commitment in a fairly condensed timeframe, we know it is a lot to ask so we are trying to schedule it with everybody's schedules in mind. Ms. Smith feels it would be great to have various Board members participating. Chair Kapala added that it will be during the day and schedules might be better for some people or worse for others.

Mr. Ball asked if there are criteria to follow? Chair Kapala advised that Ms. Pelletier is working on the interview questions. She has reached out to other towns to get ideas so she can put together a list of questions so everybody answers the same questions in a fair process. Mr. Rouda explained that he doesn't know if others want to do it but if it is next week, he feels he could because he has black out spots. Chair Kapala suggested that he send his black out spots to Ms. Pelletier, it would be great and we can start to build the schedules from there. He hopes it works out. Ms. Burwell added that she could do it next week and Chair Kapala suggested she send her black out spots to Ms. Pelletier. Chair Kapala mentioned he is happy to step back on this one. Ms. Smith explained what our Comprehensive Plan is and Chair Kapala added that we are choosing a consultant to help us do some of the heavy lifting that would be impossible for us to do in 2- or 3-hour meetings once a month. Mr. Ball noted that they play an important role. Mr. Rouda advised that it is a big decision and it is a 10-year plan and all of the zoning decisions we make on the Board have to abide by that so it is bigger than the zoning and we can't mess with what gets built where if it doesn't fit with that. It will really set the direction for the next 10 years.

### 2) Update on the Freeport Downtown Vision Plan Implementation Task Force

Chair Kapala advised that he does not have a lot to share on this. Last month's meeting of this particular group was cancelled. At the meeting before that, we talked about an Acceleration Grant Program that the Council has put some money toward. The idea is that potential businesses that want to come to Freeport could get some money with few strings or maybe no strings attached to promote an idea to help pay for some development costs to get their business off the ground with the idea of helping people get a leg up as they come in to our community. Brett Richardson presented that to the Council last night. Chair Kapala was here before he went on but he did not go back and listen to the rest of the meeting so he does not know exactly what he said and he does not know exactly how the particulars of that program were pushed out. He suggested that the Board listen to the end of last night's Council meeting where that was presented to the Council. He feels it is exciting stuff to try to get more businesses in town and excited about Freeport. The Task Force meets either the third or last Thursday of the month on zoom. It is always remote and public participation is encouraged so anybody that is available on Thursday evenings for one hour can listen in.

### 3) Update on the Freeport Climate Action Plan

Chair Kapala advised that this also went before the Town Council last night. Ms. Smith explained that Meddy and the Freeport Sustainability Advisory Board presented recommended targets for emission reductions to the Council. The Council decided not to vote on it last night. They will vote on it on November 3<sup>rd</sup>. If anyone wants to participate, they should plan to attend that meeting. Mr. Rouda asked if that was also at last night's Council meeting? Ms. Smith advised that it was.

Chair Kapala pointed out an extra plug for last night's Council's meeting. There was also discussion about a TIF for a new affordable housing development down on Varney Road as well as something we will get to a bit later. It was a great meeting to watch if you have time to spare.

Ms. Smith pointed out that we are still working on a draft of the Climate Action Plan. The public is always welcome to participate and can sign up for e-mail updates. There is much information available on the Town's website and people can post photos or talk about things that concern them about climate resiliency and climate change. Meddy is our Sustainability Coordinator who works part-time in Yarmouth is doing a presentation tomorrow to the Yarmouth Planning Board to talk about the very broad aspects of land use decisions and how they affect climate action. She has offered to make an educational presentation to this Board if you are interested and if we can fit it into the schedule.

Chair Kapala felt last night's presentation was interesting and he finally caught up on what Meddy and the FSAB

has been up to. Ms. Smith added that it is good timing because often times when you have a Comprehensive Plan, climate resiliency might be part of it.

#### 4) Report of items reviewed by the Freeport Project Review Board

Ms. Smith pointed out that this is five months' worth of Project Review Board projects. They have had signs at Gritty's, solar panels including one for a member of this Board and we had a roof for another Planning Board member. They were the Design Review ones for minor alterations and removal of a barn. In terms of subdivisions, we have the 80-unit Harraseeket Ridge Subdivision and they have asked for an extension. There is another 8-unit subdivision proposal for Whitetail. All of this information is on the agendas we sent by e-mail. We had a Site Plan application from L.L. Bean for a parking lot reconfiguration. They indicated that they may do something with their main campus but it is on hold. Mr. Ball asked if there was discussion about the demolition of the L.L. Bean building? Chair Kapala noted his tentative understanding is that it is somewhat in flux. They may change it or they may remove it. It is not entirely clear.

Mr. Rouda asked if anyone from the Downtown Vision group is in touch with L.L. Bean about the resolution of what they do with their property? Has anybody been tasked with that? Chair Kapala advised that there is nobody tasked with it that he knows of. Mr. Rouda added that it could be one of the most crucial decisions in the way Freeport looks forever but he is not trying to get in their business. Somebody should be talking with them about what the Town wants being consistent with the Freeport Vision Plan which was very clear about what would be ideal to do right at that intersection. He is worried that they are going off to do what they want to do and that is fine. He is sure whatever they want to do will make it nicer but are they going to articulate the corner so we have a center square? They can or could. He feels somebody should at least ask and early is better. Chair Kapala added that he thinks the sky is the limit and conversations are ongoing. He has been talking to people that have been watching the plans. Mr. Rouda added that somebody should be articulating the Town's interest. He would take it from the Vision Plan which says, "anything that can be done to widen the sidewalk right across the street from Bow Street would be a huge help." That is really it so if they could push the stairs back just a little bit, it would make a big difference. Chair Kapala thinks it would be great to see where they are in that planning process and see if someone from Bean's is willing to put out something that says, "here are where we are." Mr. Rouda feels it should come from the Vision people, not us. That is who should take the lead. Chair Kapala agreed it is not a Planning Board project. Mr. Rouda noted that if anyone cares about the Vision, this is a once in a 70-year event. Mr. Arsenault asked if they have been to Project Review already? Mr. Rouda mentioned that all the Project Review he has seen has been minor alterations and renovations and stuff they are doing on the side street. He did see perhaps an early conceptual plan that showed them taking down the one building. He wonders if they thought about making it a foot or two bigger because it could be that little that would make a difference if somebody talked with them about it. They could say no, and that is the way it goes but we could ask. Mr. Rouda asked if there is an action plan that can communicate that back? Chair Kapala agreed he could ask Caroline, Dan or somebody chairing the Downtown Vision Task Force.

#### 5) Update on status of current and future Planning Board projects

Chair Kapala noted this is potentially a broad item. Ms. Smith advised that today we are taking care of one of the projects on our list which is the stormwater amendments that we have to do which is required by the State. We have a list of other projects that are pending and on hold and some may remain on hold such as EV charging stations and EV charging requirements for parking. The C-I District clean-up is also on hold.

At next week's meeting we have an applicant-driven zoning amendment to allow weddings in the Nature-based Art Overlay District which are currently not allowed.

We will continue to work on LD 2023 following up on having a discussion next Tuesday. She is hoping to have

some draft amendments for the Board tomorrow and will post them on line. We have been working against the clock to get those draft amendments done. Hopefully, after the Board has discussions at our next meeting and perhaps make some policy decisions, we will come back in October with a public hearing so we can get this resolved and to the Town Council for approval so we meet our January 1 deadline. There will be Subdivision clean-up that has been pending and will all come together so after we do LD 2003 amendments we will also most likely be amending Subdivision and Shoreland terminology To make sure everything is flowing horizontally. In terms of the Design Review work that that was discussed yesterday, Chair Kapala noted that as Item 5 in a more in-depth update, for now Chair Kapala will say he has been talking with Caroline and trying to help her get out the other RFP for the Design Review updates. We set a goal of having something ready by the meeting on September 12 that we can then hopefully review and get anybody interested on the Planning Board can read a draft and offer quick comments but they are really trying to get it out by the end of next week. He realizes it has been a really long process as we we will segway to the Minutes of the March 1 meeting but we are really getting close and trying to get it out the door as quick as we can between now and next week.

Mr. Rouda noted he is pretty interested in how it is structured and what they are asking for. Chair Kapala mentioned the scope of work and he knows what Caroline has been working on. In shifting things around here a it, Item No. 5 there has been a recommendation by the Town Council to create a Downtown Core Working Group. The goal of this group is to function as a working group to talk about the Design Review Ordinance and be the committee that oversees that process but is not just limited to that. It also takes on some of the other projects, permitting and streamlining and tweaks to not only Zoning but potentially other ordinances as well to improve the functioning of the downtown and regulation of the downtown to encourage housing and other things that have been identified. That group has six months, according to the Council's initial charter to make those recommendations. The goal is to have that group review the scope of work and then push it out as soon as they can after that. That group will meet for the first-time next Wednesday and that is the timeline of where we are going. Mr. Rouda asked if appointments have been set? Chair Kapala advised that yes with a couple of exceptions they have been. Ms. Smith asked if the appointments were made last night? Chair Kapala replied yes, it was a fascinating meeting. Ms. Smith asked if the meetings will take place every Wednesday? Chair Kapala advised that they will meet from 12:30 to 1:30 p.m. in the Council Chambers. Mr. Rouda noted he feels it is all great news and a good plan. Chair Kapala suspected the group would not meet weekly for six months. It happens to work for him for the next few weeks but it is definite he will not be able to meet every week. The goal was to try to keep the group small so there is a good representation from the Council, this Board and the Project Review Board but keep like one member of each committee so they try to keep things as tight as they can. Obviously, there will be opportunities for input and he will try to do it for this Board which is why he is trying to shirk other duties like the Comp Plan. He added that the group will also include a developer and somebody else that has experience navigating these ordinances and another member of the public. It is 10 or 12 when all is said and done. He mentioned he would talk about it again as follow up to Item No. 5.

Before moving on to the next item, Ms. Smith announced that we are losing one of our Planning Board members. She noted that Anna Child is leaving us. We will be getting another new member. Chair Kapala thanked Ms. Child for her four years of service to the Board. Ms. Child pointed out that she will continue to follow the Board. She always felt welcome and thanked the Board.

**ITEM II:** Review of the minutes from the March 1<sup>st</sup>, 2023 Planning Board meeting.

Chair Kapala did not want to spend a lot of time on this but noted that in March the Board was talking about getting these RFPs out the door. On the positive side, we do have one out the door and we are very nearly to the point of having the other one. We have had a lot of stuff come up in between appeals, the Town Manager leaving and LD 2300 so we have not just been sitting on our hands in the meantime.

Mr. Rouda wanted to say that Sharon does a good job and if only the RSU5 Minutes looked like this, we might have some transparency. This is transparent so everybody can see what everybody said. Chair Kapala added that it is great to be able to go back and read and be reminded of.

**MOVED AND SECONDED:** To approve the Minutes as printed. (Rouda & Jortner)

**VOTE:** (5 Ayes) (1 Excused-Ball) (0 Nays)

**ITEM III: PUBLIC HEARING – Text Amendments to Section 529. Stormwater Management and Section 602. Site Plan Review of Chapter 21 Town of Freeport Zoning Ordinance (related to stormwater and erosion and sedimentation control standards).**

The Board will hold a Public Hearing to discuss proposed amendments to Section 529 and Section 602.D and 602.F of the Freeport Zoning Ordinance. The purpose of the proposed amendments is to comply with the standards required by the State of Maine General Permit for Stormwater Discharges from the Municipal Separate Storm Sewer Systems (MS4s).

Chair Kapala mentioned the Board would be having a public hearing tonight and Town Engineer Adam Bliss will walk the Board through these proposals and the changes need to make.

Mr. Bliss introduced himself and explained that one of his responsibilities is stormwater. As the Board may know the town is regulated by the Maine DEP on what this town discharges in its stormwater. He is talking about runoff from municipal properties and roadways within an area delineated by the U.S. Census. They call it the urbanized area. Essentially, it is South Freeport, Old South Freeport, Route One to the East to the water, certainly the Downtown Village. The U.S. Census determines that based on population density so the higher the population would trigger being in that urbanized area. That is at the federal level. At the state level, starting in 2003, the MDEP issued a Municipal Stormwater Permit so we have been regulated by that permit for 20 years. Every five years they renew it with new items which is the “why” he is here tonight. Starting July 1, 2022, a new permit came out and one of those items revolves around erosion and sediment control. What that permit effectively does is places responsibility for erosion and sediment control inspections to Town Staff, mainly him and/or the Codes Enforcement Officer. That is the why and these are mandated changes and he is hopeful after giving the Board the high points, we can get some consensus on why they make sense.

There is a packet in front of us that appears quite thick and we are taking the opportunity to do some clean up. The changes appear in two locations, first the Zoning Ordinance and then the Subdivision Ordinance. He suggested tackling the Zoning Ordinance first. He provided a memo on Page 1 summarizing the changes. The first is we have added language that within the Zoning Ordinance under Section 529, Stormwater, we are adopting the MDEP standards by reference. Secondly, we are adding language to Section 602 that are the Site Plan submission requirements as well as 602.F Criteria and Standards. We defined when an applicant must submit an erosion and sediment control plan. At a minimum, the MDEP is requiring us to require that plan, the Erosion and Sediment Control Plan for projects that disturb greater than one acre of land. That is the minimum. We have added a lower threshold that says for sites between 5,000 sq. ft. of disturbance and that one-acre threshold you must submit a plan but it is at a reduced level which any contractor is familiar with those erosion and sediment control methods. We are talking silt sock and erosion control blanket and tracking sediment onto roadways.

These are standard practices but we are defining them in ordinances. Mr. Rouda asked if it is true that W2 is required by the state but W1 is not? Mr. Bliss advised that W2 is required but W1 is our edition but not required

by the state. Mr. Bliss mentioned Ms. Pelletier and he discussed this at length and wanted to define the standard that would not prohibit development or be a detriment barrier but since we have some sensitive resources with streams, gullies and urban impaired watersheds, they came up with this 5,000 sq. ft. to one acre. He recalled that they looked at 8,000 which is the minimum lot area for a subdivision and 5,000 coincided with zoning so they kept it simple at 5,000. Chair Kapala asked Mr. Bliss to explain what a disturbed area is. Mr. Bliss explained that a disturbed area is not when you have a plot of land and you cut the trees but do not pull the stumps. What is disturbed is when you remove the stumps and basically disturb the soil. What is also not a disturbed area is an area that might have already been developed. It might have gravel down and somebody comes in and they maintain that surface as it existed with the same profile and the same grade. We call it maintenance which is not disturbance. Chair Kapala asked what the time threshold is on that? He provided an example. Mr. Bliss advised that the Planning Department is very good at tracking that, mainly Caroline. She has great historical knowledge about what has been developed and when. Chair Kapala mentioned that the intent is not to disturb too much in one plan. Mr. Bliss added that the reality is that contractors are doing this work anyway which is why they added language in W1 for between 5,000 and one acre to say reference the Field Guide for Contractors Manual put out by the MDEP. There are two versions. One is for engineers for the higher threshold and there is one that is developer-friendly for smaller projects which is what we call the Erosion and Sediment Control Field Guide for Contractors.

Mr. Ball asked if a homeowner can prepare the plan or does it have to be a licensed contractor? Mr. Bliss advised that 9 times out of 10 a homeowner will hire a contractor and that contractor is already certified in erosion and sediment control so it is fluent. Maybe they are a weekend warrior and they are meeting with Staff or meeting with him and they educate them to help them move their project along. Mr. Arsenaault asked if agriculture is exempted from this? Mr. Bliss believed agriculture is exempt but that appears earlier in the Zoning Ordinance. Ms. Smith advised that agricultural activity would not trigger Site Plan Review. Mr. Rouda mentioned if you have a gravel parking lot of an acre and you wanted to turn it into asphalt, would it trigger Site Plan Review? Mr. Bliss advised that it could but it depends on what they come forward with their application. There are many scenarios but that is a very plausible scenario. Chair Kapala mentioned as far as the submission requirements, could Mr. Bliss take a site plan and just draw like I am putting my erosion control mix mulch here and I am putting a fence there and just do a hand-drawn plan? Mr. Bliss advised that it would be acceptable. Chair Kapala wants to be sure the Board is not adding a cost barrier and this is his world and he works with plenty of guys that would want to take the plan and draw on it and then send it off. It is cost and it is time. He would want to make sure it is not super difficult and we would want to make sure we avoid it to the best of our ability. Mr. Ball asked Mr. Bliss if he is the one that would review these? Mr. Bliss advised that he reviews but the Project Review Board approves unless it is Staff Approval and it would go before Caroline because she has a threshold lower than 5,000. Mr. Bliss noted that he does not want to be a barrier to development which is why Caroline and he talked about that and he wrote about it in his memo that the reduced threshold is current industry practice and most contractors are already certified and lastly, we give them the option to reference the Field Guide. They want things simple when they can be. The Field Guide is on line and he can point them to it.

Ms. Smith pointed out that there is a lot of damage that you can do even if it is short of an acre and any process could incur a lot of sedimentation that could really affect water quality. Chair Kapala added especially with the kinds of rains we have seen this summer when you have an open foundation hold near the water and you can easily dump yards of sand on your neighbor's property. Mr. Ball added that with impervious structures it really makes a difference when you change gravel to pavement.

Mr. Bliss advised that there is still one last change in Erosion Control that appears in F. Criteria and Standards on page 16. We are citing the MDEP standard that the project won't cause unreasonable soil erosion or a reduction in the land's capacity to hold water. That is language right out of Subdivision and it is a state standard too. Ms.

Smith advised that she talked about this with Mr. Bliss because this is something we might discuss at future meetings as taking certain types of what we now consider subdivisions outside of subdivisions such as a multi-family of three units in a single building and one of the findings the Planning Board needs to make to be able to take those types of projects out of subdivision would be to find for instance, Site Plan Review is consistent with state standards for them. That is one that was generally addressed in the environmental considerations but she likes that we are addressing it here because it makes it very clear and it is stated.

Mr. Rouda noted he does not know how much of a standard Best Management Practices is. Sometimes there are best management practices and there is acceptable management practices and the best management practices might be unreasonable or it might be ideal or not required. He does not understand it. Ms. Smith added that usually when it comes to stormwater management and erosion control best management practices, it is mostly the agreed upon scientific and industry standards. Mr. Ball mentioned that they are just recommendations.

Mr. Bliss advised that there is a palette of options to choose from. BMP or Best Management Practice is industry language. It is not uncommon to wrinkle your forehead to think that one through. One of his colleagues refers to them as a stormwater control measure. To him that is more intuitive because he deals with stormwater all the time. He asked the Board to think of it as a control measure to prevent erosion from leaving the site and getting into the streams. Mr. Rouda asked if it is possible that Mr. Bliss could make sure that his project was not going to have any deleterious effect on anybody without following those best management practices? Is there an alternative management practice? He is trying to figure out if the best management practice is the only way to be sure? If it is, he gets it now. Mr. Bliss added that there is a lot of flexibility in what they choose, whether it is a silt fence or an erosion control berm or a silt sock. There are many tools in the tool box. Mr. Bliss advised that that covers his walk-through Zoning and he thought the Board had good questions. Mr. Rouda asked if the Subdivision changes are essentially the same and Mr. Bliss agreed that they are but he will walk through them quickly.

**MOVED AND SECONDED:** To open the public comment period. (Jortner & Ball) **VOTE:** (6 Ayes) (0 Nays)

No comments were provided.

**MOVED AND SECONDED:** To close the public comment period. (Ball & Burwell) **VOTE:** (6 Ayes) (0 Nays)

Ms. Smith provided a copy of the motions.

**MOVED AND SECONDED:** Be it ordered that the Freeport Planning Board recommends to the Freeport Town Council the proposed amendments regarding the Zoning Ordinance revisions to comply with the Maine General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) requirements and reducing the threshold for Erosion and Sedimentation Control requirements to disturbances greater than 5,000 square feet. The amendments include Section 529 and Section 602.D and 602.F of the Freeport Zoning Ordinance. The Board finds that the proposed language has been drafted to protect the health and safety of Freeport residents and is in in harmony with the Comprehensive Plan's Vision that Freeport would be a responsible steward of the environment by providing incentives to develop land in ways that don't harm the environment and ensuring an adequate supply of potable drinking water in keeping with the Comprehensive Plan. (Burwell & Arsenault) **VOTE:** (6 Ayes) (0 Nays)

**ITEM IV: PUBLIC HEARING – Text Amendments to Chapter 25 Subdivision Ordinance (related to stormwater and erosion and sedimentation control standards).**

The Board will hold a Public Hearing to discuss proposed amendments to Article 3 Definitions, Article 11 Approval Standards, Appendix D, Appendix E, Appendix F, and Appendix J of Chapter 25 Subdivision Ordinance. The purpose of the proposed amendments is to comply with the standards required by the State of Maine General Permit for Stormwater Discharges from the Municipal Separate Storm Sewer Systems (MS4s)

Chair Kapala asked Mr. Bliss to walk the Board through the Subdivision section.

Mr. Bliss referred to Page 17 where there are Subdivision changes starting. The first change is on Page 19 which defines and clarifies a disturbed area. Moving on to Page 25 they took this opportunity to update and clean up Proper Citation of Stormwater Management Design Manuals. This is the MDEP Stormwater Design Manual that changes over time. Its title changes and its date of acceptance changes so they took this opportunity to clean up the Proper Citation. It appears in multiple locations. The first one is under Definitions on Page 25. It also appears again on Page 27. Page 27 is where we start to look at the approval standards within the Subdivision Ordinance. It is also known as Article 11.

One of those performance standards is again Stormwater Management and Design so we are cleaning up the language. It also appears again on Page 29 under Design Guidelines. Now we get back to what we already covered inserting the proper and required erosion control language and appropriate thresholds within the submission requirements of the Subdivision Ordinance. On Page 34 at the very end, they inserted those two thresholds that falls under Minor Subdivision Submission Requirements. Moving on to Appendix E, they are changing the Proper Citation for the Stormwater Design Manual and they have struck out the Erosion and Sedimentation Control Plan published by Cumberland County Soil and Water Conservation District. That is archaic language that they are covering elsewhere within this ordinance. Mr. Rouda added with the MDEP standards and Mr. Bliss agreed.

Mr. Bliss advised that they talked about Minor Subdivisions and inserting that language. Now Appendix F is Major Subdivision and that new language appears on Page 38. It is the same language we have already seen and lastly, they are removing Appendix J that is titled The Maintenance Agreement for Stormwater Management Systems. This is an agreement that the developer signs and Mr. Bliss signs it as well and it gets recorded and notarized. It is an agreement that says the developer will annually inspect and certify that their stormwater systems are working properly. It has existed for a long time. Per our Town Attorney's recommendation, it is being removed from the Subdivision Ordinance. It will appear as a stand-alone form for agreement. That is the last change. Mr. Rouda asked who makes sure it goes where? Mr. Bliss felt it was a good question but it may already be there. It is always covered in the Conditions of Approval but apologized because he does not recall where else it appears within the ordinance. Ms. Smith did not feel that it rang a bell but we could always flag it. Chair Kapala feels that it should be easy to add Item 25 a signed copy of whatever the new thing is called. Mr. Bliss added that it would not fall under Appendix F because that is a preliminary submission requirement. Appendix E is additional information that may be requested and it does not seem appropriate. It is a case-by-case basis but 9 times out of 10 one is signed.

Chair Kapala suggested flagging this for Caroline to take a look at before the Council approves the final. It is worth taking a look at but he did not want to make a huge deal out of something that Mr. Bliss has the expertise in. Mr. Bliss directed the Board to Page 29 Stormwater Management, under C. Design Guidelines, at the top of the page. He read: Subdivisions requiring Stormwater Management facilities shall enter into a maintenance agreement with the town but we have to strike out the sample of this agreement is attached. He noted we are



covered, it is a requirement but we need to add that struck out language in the last sentence. Mr. Arsenault asked about a Conservation Area, secondary on Page 18. It mentions a 200' buffer along 295. He asked what part of 295? Is it the full length of 295? Ms. Smith advised that it is not a proposed amendment. They are working on amendments to the Subdivision Ordinance and sometimes they reference open space maps. Mr. Bliss had to defer on that one. It is not a proposed change and he is not clear on the origin of that. Mr. Rouda asked if it starts at the road? Ms. Smith added that it sounds like it is a reference to the Freeport Village Open Space Map 2. Therefore, the Board would look at the map and pointed out where it is located. It is on Addendum 2 of the Freeport Zoning Ordinance Staff Map which is on the Town's website. Mr. Arsenault noted that it is just the downtown where 295 runs through the downtown.

Chair Kapala asked if the Board could flag this one for questions for the next round? Ms. Smith agreed and clarified that we will flag the definitions of Conservation Areas Secondary and specifically the map references. She pointed out where the buffer is.

Mr. Bliss pointed out that Mr. Arsenault had a question about a concept plan. Mr. Bliss advised that they were not proposing to add erosion control in the concept plan section because really that is in a later stage. It does not exist there and they are not proposing to add it in. Mr. Arsenault clarified that part of his question was on the conceptual sketch plan. It used to be there was a conceptual sketch plan and read: it has to be prepared by a landscape architect or professional engineer. He asked why for a conceptual plan? Mr. Bliss noted he has to defer to others. That is referenced not to erosion control but to the concept sketch. Mr. Arsenault did not feel it was necessary for a conceptual. Mr. Bliss noted that perhaps it is something to flag but he would have to refer to Planning. Chair Kapala advised that the Board talked about something that was related to the requirement that professionals be involved a few years ago. His memory is to make the idea that the package getting reviewed at the conceptual level is clear enough that there is something to review that a volunteer board can take a look at and make an accurate assessment of. He feels there is a certain standard that can be tough to meet when you are trying to do it on the fly or do it yourself. Mr. Ball advised that if you don't set a minimum threshold, somebody can come in with crayons, chances are they wouldn't but they could. Chair Kapala noted the counter argument is what if somebody did a great job without a professional that is not stamped, why shouldn't that fly? Mr. Arsenault thinks for the first round somebody should be able to come in with a halfway decent draft and ask if this this will go anywhere or not before investing in a bunch of other stuff. Chair Kapala feels that is a valid point but the question is how do we set some standard for that? That is a discussion for another day. Mr. Arsenault feels that if someone comes in with something messy, we could say it has to be clearer than that and he has to go back. Mr. Ball added without incurring all those costs. Ms. Smith thinks that is the idea around the second round. Chair Kapala clarified that the gist of this is you are not required to submit your full plan at the conceptual stage. Mr. Bliss noted it would only be at the Site Plan final or subdivision preliminary.

Chair Kapala asked if there are any other questions on this one? We have a couple of flags for the next round of Subdivision clean-up which is coming fairly quickly so we have a few things to keep in mind for that discussion.

**MOVED AND SECONDED:** To open the public comment period. (Jortner & Burwell) **VOTE:**  
(6 Ayes) (0 Nays)

No comments were provided.

**MOVED AND SECONDED:** To close the public comment period. (Ball & Jortner) **VOTE:**  
(6 Ayes) (0 Nays)

Chair Kapala asked if there is a volunteer to read the motion again with the other version of the edit that was made the first time.

**MOVED AND SECONDED:** Be it ordered that the Freeport Planning Board recommends to the Freeport Town Council the proposed amendments regarding the Subdivision Ordinance revisions to comply with the Maine General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) requirements and reducing the threshold for Erosion and Sedimentation Control requirements to disturbances greater than 5,000 square feet. The amendments include amendments to Article 3 Definitions, Article 11 Approval Standards, Appendix D, Appendix E and Appendix F of the Town of Freeport Subdivision Ordinance. The Board finds that the proposed language has been drafted to protect the health and safety of Freeport residents and is in in harmony with the Comprehensive Plan's Vision that Freeport would be a responsible steward of the environment by providing incentives to develop land in ways that don't harm the environment and ensuring an adequate supply of potable drinking water. (Rouda & Arsenault) **VOTE:** (6 Ayes) (0 Nays)

**ITEM V:** Follow-up discussion regarding the recommendations of the Freeport Housing Task Force made at the August 22<sup>nd</sup>, 2023 Town Council Workshop.

Mr. Rouda noted that we have discussed this quite a bit but the news since the last meeting was that there was a public workshop of all three groups, the Planning Board, the Project Review Board, the Town Council and the Housing Committee. There was a lengthy discussion among the four groups. Brett Richardson presented on behalf of the Housing Committee. The core proposal of the Housing Committee was that the Design Ordinance be suspended for residential projects in the Downtown District until the new Design Ordinance is written and adopted. There was push an pull on that and there was mixed emotions and a vote was not taken. There was some consternation but some understanding too about the intent of removing barriers to construction downtown. The conclusion of the group was that something should be done rapidly. If not what the Housing Committee proposed but something else that does make it easier to develop housing with prescriptive standards and that is why how it is written is important that are easy for a developer to know he complied before he even goes to the Project Review Board. That was sort of the goal and then it was kicked to this committee. Mr. Ball asked if LD 2003 was talked about? Mr. Rouda noted it was barely mentioned but the Housing Committee pointed out five or six things the Town could and should do. LD 2003 was one of them but it was mentioned as the Planning Board is ahead of them. On this, they are doing what needs to be done. They are creating more lenient standards. Public education was one of them. In the packet is the rest. The most critical one was the Downtown Vision asks for housing to be built downtown. Right now, it is virtually impossible to get housing built downtown because of the vagaries of the current ordinance.

Chair Kapala added that he has heard it described as a de facto moratorium on development. It is where we found ourselves. Six months is the timeline that this group is allowed to meet according to the Council. There is another timeline in which the goal of the weekly meetings within the next few weeks is to produce actual items for this Council before December. There is an election in November and there are three open seats so the make-up of the Council will change but we don't know how or exactly as this point but the goal is to have some recommendations at this Council because this Council has been working on these sorts of issues for some time. There is a sense of how the Councilors feels about it. There have been chances for public input and of course there will be more but that is really the accelerated timeline and there is a tail end of that.

Mr. Rouda added that it is worth mentioning that if you come up with a punt position on the Design Ordinance, then does the work on the RFP change? Chair Kapala feels that is interesting. He talked with Caroline after the public workshop and suggested that she get it out because we need to select some consultants to help us work

through red ink issues and help us move the ball. That is his sense of getting the RFP out and finding somebody to help us work through some of these issues. He thinks the first of the Housing Task Force's recommendations was intentionally bold to get the discussion started. It certainly did and it got this other working group. He thinks some good has come out of that and one thing he would want to get from this Board is a sense of if there is not the Council appetite to suspend the Design Review Ordinance until it is rewritten, just in the Downtown District, what might some changes look like to a partial suspension? What if we suspended it but not on Main Street and only for buildings that are less than 30'? He feels there are a million possibilities and it is worth spending a couple of minutes to see how the Board feels about that recommendation and how aggressive we would like to be in promoting housing and what sorts of things. Somebody said at the public workshop but ultimately it may have been Mr. Arsenault, is what do we want and what are we willing to give up to get it? Nobody is going to come in and build an affordable housing unit that looks like a two-story beautiful ornate trim just like it would look had it been built in 1865. Unfortunately, it is just not going to happen in this building environment. Mr. Arsenault at the end of six months, what is failure and what is success? Do we remove the moratorium in six months because they could not come up with something? He also thinks the committee has to decide what does Freeport want? Everybody goes to these meetings and wants things to look historical but you look at old black and white pictures from the 1900s and there are plate glass windows in three-story buildings on Main Street next to a one-story grain store so we all want things to be compatible and not out of place and all these other things but we are trying to recreate something that was built without zoning and now we are trying to design zoning to replace that and it is very difficult. If we don't want three-story flat roof buildings, just say that. You also have to come up with some kind of thing and he doesn't know if form base code fills that position or not. He doesn't believe we will get affordable housing because square footage costs too much without federal subsidies. He thinks it is impossible to build at \$350 or \$400 a square foot with the price of money going up. Mr. Ball added that you need the credits. Mr. Rouda added that if anyone wants to talk about affordable housing, they should be talking about the credits and the financing system but you don't build for any less. Mr. Arsenault feels that an applicant should be able to figure out what he has to do to pass the ordinance with a few tweaks. For the Project Review Board saying everybody is happy, the guy out in the hall grits his teeth and comes back in with his game face and gets his permit through. You can't tell Mr. Arsenault that they are all happy with what happens at Project Review or any other Board. They just have to get their project through.

Mr. Rouda noted the question is what does the Planning Board think we should do to help with the moratorium? That is the question that is posed. Chair Kapala added that basically, he thinks is there something else that might be palatable to the Board or some other alternative to an outright moratorium? Mr. Rouda added that it was floated that if you took Main Street out of it and everyone here agreed that is a good idea but will allow to stay on Main Street that might go through but he doesn't know. The blanket removal won't go through but without Main Street, might go through if you thought it might be a good idea. Mr. Ball added that he gets the idea of trying to move this forward but again, doing all this without even a Comp Plan. These are major decisions and you are doing it before the Comp Plan. Chair Kapala pointed out that we have the Downtown Vision. Another approach is the incremental one you take away from all these changes by making small changes and make them quickly and see the sum of them. Mr. Rouda asked how to make a change to the word compatible? Mr. Arsenault did not know and added that he feels it is subjective. Mr. Rouda asked if a flat roof is a problem? Mr. Arsenault pointed out that L.L. Bean has a three-story building with a flat roof. Mr. Rouda mentioned that we have a flawed ordinance that affects everything downtown and it had good intentions. Nobody is against the intentions and if we removed it all together, we would still have zoning but it raises risks that he does not know there is consensus to take. Chair Kapala agreed and added that we will never get 100% consensus.

Mr. Arsenault asked how many projects are we going to get on Main Street? We had one next door which is the first one in many years. Most have been torn down. Is one project going to tear the town apart? He guesses it

did but he is surprised at the insecurity or we can't stand change. There were two old dilapidated houses there when he was young and a gas station across the street so everything is an improvement but it depends on how you look at it. Nobody wanted to buy it but everybody wants it to be a park but no one wants to pay for it. Mr. Rouda agreed it should be a park and anybody could buy it. Chair Kapala asked if anyone would like to see the Design Review suspended while we wait for the overhaul? Mr. Arsenault indicated he would. Ms. Burwell mentioned that to suspend it she doesn't think so. Mr. Jortner asked what would be the worse-case scenario if it is suspended? Chair Kapala explained that on the one hand, there is the actual danger of a project coming in that is objectionable to a large percentage of the town for one reason or another. Then there is the theoretical considerations like swinging the pendulum too far and getting people fired up about something that has ramifications that affect other priorities and other rules we are trying to advance. Mr. Ball asked if there would need to be a public hearing to remove it? Mr. Rouda replied, yes. Chair Kapala added that there is the question of whether the Planning Board would do it or whether it is possible for the Council to just do it.

Mr. Rouda asked if the Planning Board wants to weigh in on this subject? The Housing Committee did. Chair Kapala mentioned that is why we are having this discussion. He thinks it is appropriate for the Planning Board to mull it over. He would support a reduced version of it. He would keep it off Main Street from Harraseeket to the Fire Station. Mr. Rouda clarified that he means keep the suspension off of Main Street and Chair Kapala agreed but clarified that he would retain the Design Review Ordinance for the Main Street core but consider some tweaked version of relaxing guidelines where the stakes are lower such as down Depot Street or back a block or two off of Elm Street but there is probably not land for sale there. The Design Review District is quite large and extends into some residential districts where things happen and things move around. Ms. Smith pointed out that it also extends into other districts that have perhaps not high-density requirements already. If you are interested in expanding housing opportunities, you might want to consider lowering the density requirements of those other districts because right now the only one we lowered it to zero and we got proposals is the VC-I. Chair Kapala advised that in the VC-I the density is zero so you can build.

Ms. Smith asked if the suspension is while they work on Design Review? Mr. Rouda advised that it would be a two-year suspension until we get a better Design Ordinance. Right now, we are sitting on an ordinance that is fatally flawed and is part of the urgency to try to get the thing fixed and we haven't succeeded in moving it forward in nine months of talking about it. In the meantime, no one can move forward with anything such as commercial. That is the relevant question and the fear is mostly materials. It is like somebody tears down a house in an adjacent neighborhood to build a new house and they build it out of something like cementitious panels, that is something the Design Ordinance says no, you have to have perforations in the street wall or you have to use wood, that could be prescribed if that is what the community wants. Right now, you have to be compatible so that allows the public to say whatever they want. Chair Kapala added that there are some materials guidelines in there so all that would go away. Mr. Rouda asked what would happen if we just removed the word compatible and said everything else in here is okay. Chair Kapala added that compatible might have existed 100 years ago talking about historic preservation. Mr. Rouda feels the material guidelines seem fine to not mess with it until we mess with it. It is just compatible and you can drive a truck through it. Mr. Arsenault feels until some of that stuff is changed, no meaningful development will come. Who will build?

Mr. Rouda mentioned to really go into that ordinance, is there a way to find all the subjective language and say we will take it out. Mr. Ball feels we should listen to some of the developers because they had good input. Chair Kapala likes the idea of changing some of the zoning in the surrounding areas. Ms. Smith pointed out that the VC-I District is relatively small so the purpose is to accomplish the Vision. Mr. Rouda mentioned that the question is whether this should be done in advance of the Comp Plan but he strongly supports it. Chair Kapala explained that the existing Comp Plan from 2011 has the downtown district and encourages a variety of housing types at a variety of price points or something like that. It is right in there and it has been there for years. Mr.

Rouda clarified that Chair Kapala is saying that according to the existing Comp Plan we could rezone those areas. He feels that is a good idea. Chair Kapala mentioned that we have a good sense of what the Planning Board feels and we have meetings coming up. Obviously, his role in sitting on that committee will be to update the Board at every meeting. Mr. Ball thanked him for that commitment.

**ITEM VI:** Persons wishing to address the Board on non-agenda items.

Our one attendee this evening mentioned that he was here for the housing discussion. Chair Kapala noted there will be lots of opportunities for public input and we really want it. He suggested that the public check the website and the calendar and share their thoughts.

**ITEM VII:** Adjournment

**MOVED AND SECONDED:** To adjourn at 7:40 p.m. (Burwell & Jortner) **VOTE:** (6 Ayes) (0 Nays)

Recorded by Sharon Coffin