



TOWN OF FREEPORT, MAINE

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MEMORANDUM

TO: Freeport Town Council
FROM: Peter Joseph, Town Manager
DATE: 07/01/21
RE: **Proposed Consent Agreement – Other Business #1 – 07/06/21 Council Meeting**

Attached to this memo you will find documentation regarding violations of local ordinances at 250 Wolfe Neck Road. The property owner and Town staff have developed a proposed administrative consent agreement to address the violations on the property. The course of action proposed under the consent agreement would correct the various violations on the property, meaning that after the prescribed period of time, the property would no longer be considered a violation of the local ordinances in question. Administrative consent agreements that correct violations generally do not require Council action for approval, which is why the proposed consent agreement is not being proposed for Council approval at the 07/06/21 Town Council meeting.

There is general consensus on the terms of the consent agreement, aside from the penalties and costs proposed by Town staff. Town staff, in consultation with the Town Attorney and officials of the Maine Department of Environmental Protection (which has joint jurisdiction with the Town on several of the shoreland violations on the property), have recommended a total amount of \$25,000, with all but \$10,000 suspended. Of the \$10,000, \$7,500 constitutes a civil penalty, and \$2,500 constitutes reimbursement for the Town's costs. If the conditions of the consent agreement are successfully met, the remaining \$15,000 would not be assessed. This amount was proposed by staff among other things to create consistency with other penalties that property owners in similar cases have agreed to. The property owners have requested that only the \$2,500 in costs be assessed in this case.

While staff does not require Town Council approval to execute the proposed agreement, the Council does have the authority to direct staff to reduce the amount sought by the Town by issuance of an Order. As the \$25,000 amount contemplated by the consent agreement is significant, staff did feel that it was fair to put this question before the Council to determine whether there was general agreement as to whether the amount suggested is appropriate.

It is important to note that the property owner does have several other methods to address the violations on the property other than the proposed consent agreement, including challenging the notice of violation (NOV) at the Board of Appeals locally, or ultimately in Superior Court.