

M I N U T E S

FREEPORT TOWN COUNCIL MEETING #4-88

FEBRUARY 16, 1988 7:30 P.M.

FREEPORT HIGH SCHOOL MEDIA CENTER

X Regular

 Special

Chairperson's Call to Order

Present Absent Excused

Robert Hartnett, Chairperson,
Desert Road

X

John A. Nelson, Vice-Chairperson,
Church Street

X

Edward Bonney,
21 Maple Avenue

X

X

William Grady,
Elm Street Extension

X

Kirk Goddard,
Mast Landing Road

X

Robert Stevens,
Porters Landing

X

John Paterson,
Flying Point Road

X

Moved and Seconded - To waive the reading of the Minutes of
Meeting #3-88 held February 2, 1988, and accept the Minutes as
printed.

(Councilors Nelson & Goddard) (4 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Traffic and Parking Ordinance be subject to Public Hearing.

(Councilors Goddard & Nelson) (4 Ayes) (0 Nays)

For the record, Councilor Grady is in attendance at 7:35 P.M.

Moved and Seconded - That the Public Hearing be closed.

(Councilors Goddard & Paterson) (5 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Traffic and Parking Ordinance be tabled until March 1, 1988.

(Councilors Goddard & Grady) (5 Ayes) (0 Nays)

Moved and Seconded - That the proposed Licensing Ordinance for Waste Haulers be subject to Public Hearing.

(Councilors Grady & Goddard) (5 Ayes) (0 Nays)

For the record, Councilor Stevens is in attendance at 8:05 P.M.

Hildie Lipson, Recycling Director, went briefly though the Waste Haulers Ord.

Moved and Seconded - That the Public Hearing be closed.

(Councilors Grady & Goddard) (5 Ayes) (0 Nays)

Moved and Seconded - That the proposed Licensing Ordinance for Waste Haulers be tabled until March 1, 1988.

(Councilors Grady & Goddard) (6 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Alarm Systems Ordinance be subject to Public Hearing.

(Councilors Stevens & Paterson) (6 Ayes) (0 Nays)

Moved and Seconded - That the Public Hearing be closed.

(Councilors Stevens & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Alarm Systems Ordinance be tabled until March 1, 1988.

(Councilors Stevens & Grady) (6 Ayes) (0 Nays)

ITEM #30-88

Be It Ordered - That the Town Manager be authorized to issue a Quit-Claim Deed releasing any interest of the Town of Freeport for the following property:

Cumberland County Registry of Deeds at Plan Book 134, Page 77.

(Councilors Paterson & Stevens) (6 Ayes) (0 Nays)

Note: This property is located on the Wardtown Road and all 1969 taxes were paid.

ITEM #31-88

Be It Ordered - That the Town Manager be authorized to sign and execute an Agreement and Release between the Town of Freeport and the International Insurance Company which reimburses the Town for expenses incurred in defending an action entitled Campbell vs. State of Maine, et al.

(Councilors Nelson & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the Town 's Auditor report on their findings for Fiscal Year 1987.

(Councilors Grady & Stevens) (6 Ayes) (0 Nays)

Richard Dana from Brooks & Carter reported that the Town had a good year; the Town ended the year with a fund balance of \$835,000 - \$40,000 was voted out to the Equipment Account, \$5,000 was voted out for re-evaluation, \$5,000 was voted out to Historical Society Trust Fund, \$245,000 went toward 87/88 taxes, etc., leaving an available balance as of June 1 of \$540,000. Capital budget items amounted to \$1,000,000 voted by the Council which have not been expended; the Town's Debt Service has been going up substantially - there was an increase of \$4,095,000 over FY '86; the Fund Balance is solidly within the 5% range for the Town based on 15% of total valuation.

Moved and Seconded - That the Auditor's report for Fiscal Year 1987 be accepted.

(Councilors Grady & Stevens) (6 Ayes) (0 Nays)

ITEM #3-88

Be It Ordered - That Katrina VanDusen be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1988.

Be It Further Ordered - That Ms. VanDusen qualify by swearing an oath of office before the Town Clerk by February 26, 1988.

(Councilors Nelson & Goddard) (6 Ayes) (0 Nays)

ITEM #20-88

Be It Ordered - That the proposed amendments to the Freeport Zoning Ordinance, as submitted to Public Hearing on February 2, 1988, be adopted.

(Councilors Stevens & Nelson) (6 Ayes) (0 Nays)

F. Paul Frinsko, Town Attorney, explained the violations covered under the Maine Alcoholic Beverage Statutes - Title 28. Town Manager Olmstead reported that the Fire Code violations had been resolved (In a letter received from E. Stephen Murray dated February 4, 1988, Attorney for Ocean Farms and the MacLeods: "Mr. MacLeod told the Fire Chief and he now confirms it by signing this letter, that Ocean Farms will indeed tie into the Town's new system within a reasonable time after the Town installs its new system and we receive a proposal from Mr. Allen. It is my understanding that the Fire Chief merely wanted a written commitment from Mr. MacLeod to do so. This is that commitment." The letter was signed by E. Stephen Murray and agreed upon and signed by Eldon MacLeod and Paul Frinsko, Esq., and Darrel Fournier, Fire Chief.) (In a letter received from Darrel Fournier, Freeport Fire Chief, dated February 16, 1988, to Eldon MacLeod: "I understand that you are currently negotiating with the R.B. Allen Company of Hampton, N.H. Please advise me within thirty (30) days of this date of a specific installation and on-line date for your new system.") Mr. Murray stated Ocean Farms would tie into the system within 30 days.

Re: "As Built Plans" - Town Manager Olmstead reported that the Codes Enforcement Officer, Fred Reeder, had inspected Ocean Farms and found that 2,353 feet of space is being used for a restaurant and they are in compliance with the zoning ordinance; there is an upstairs room of which 457 square feet are being used for storage and there is a basement and a deck; if any of the 3 spaces are used in the future for restaurant expansion, this will constitute a zoning violation.

Re: "Sidewalk Violations" - Attorney Frinsko reported that the sidewalk configurations were based on an approval by the Board of Appeals based upon a set of plans that were submitted to them in 1984; there has been a definite modification made to the sidewalk which was not part of the approved site plan and as a result caused a hazardous parking problem at that location; because there was a deviation from the original plans and the applicant refused to correct it, the Town then cured the problem by correcting the sidewalk; Council is permitted to pursue a civil penalty in lieu of all court action, but applicant must agree to it; \$768 was the bill sent to Ocean Farms.

ITEM #21-88 Be It Ordered - That the re-application for a Malt, Spirituous and Vinous License issued to Jean and Eldon MacLeod, d/b/a Ocean Farms of Freeport, Inc., 88 Main Street, as submitted to Public Hearing on February 2, 1988, be approved.
(Councilors Paterson & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - To introduce an item not on the printed Agenda.
(Councilors Paterson & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the Town Manager in conjunction with the Town Attorney seek appropriate penalties or reimbursement of expenses from Ocean Farms of Freeport, Inc., as a result of the sidewalk modification and construction undertaken by Ocean Farms of Freeport, Inc.
(Councilors Paterson & Nelson) (6 Ayes) (0 Nays)

Public Hearing Feb. 2, 1988

Adopted

~~Proposed~~ Amendments to the Freeport Zoning Ordinance

Sec. 412. D. 1

The requirements for off-street parking in the Village Commercial I Zone shall be seventy five percent (75%) of those stated in Section 514 for retail trade, restaurant, restaurant-carry out, commercial sales and service and convenience store with gas pumps provided that the Shared Parking concept is utilized. Restricted parking would require one hundred (100%) of Section 514 requirements. Parking in the VC-I District is further subject to the provisions of Section 514. A. 10 of this Ordinance.

Sec. 514. A. 1

Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any district. Except as otherwise provided in Section 514. A. 10 g, no existing off-street parking and loading spaces shall be eliminated if the result will be to make the use more nonconforming in terms of the number of off-street parking and loading spaces required in the existing Ordinance.

Sec. 514. A. 7

Except as otherwise provided in Section 514. A. 10. g, off-street parking required to serve non-residential uses shall be located on the same lot as the non-residential use served, or within three hundred (300) feet measured along lines of public access. Such parking areas shall be held under the same ownership as the non-residential use, and evidence of such ownership shall be required. The municipality may provide parking subject to availability and lease it to individual businesses which cannot comply with parking requirements. Parking for A & B buildings as defined in the Freeport Design Review Ordinance in the VC-II District may be provided according to the requirements of Section 413. D. 2.

Sec. 514. A. 10

Except as provided in Section 514. A. 10. g, but otherwise notwithstanding anything to the contrary contained in the Ordinance, in the Village Commercial I District, the off-street parking requirements for non-residential uses shall be located within the District and shall be subject to the following conditions:

Proposed Amendments to the Freeport Zoning Ordinance

Sec. 514. A. 10. g

- g. Where the Freeport Town Council has approved specific recommendations for improving traffic circulation or parking patterns and a property owner, upon the request of the Town Council, in order to implement those recommendations, makes improvements or alterations which result in the loss of parking spaces located in the VC-I District which would otherwise be available to satisfy the offstreet parking requirements of this Ordinance, the Planning Board, applying the criteria of Section 602. F. 1. of this Ordinance, may approve the use of off-site parking spaces to satisfy the off-street parking requirements of this Ordinance, provided that:
1. Such parking spaces are shared parking and are located in a municipal facility;
 2. Such municipal facility is located on a parcel zoned Village I and is contiguous to the Village Commercial I District; and
 3. Such parking spaces are not being utilized to satisfy off-street parking requirements for some other property.

To: Town Council
From: Dale Olmstead
Re: Ocean Farms Code Violations
Date: February 2, 1988

Ocean Farms is currently in violation of two Town codes and may be in violation of a third. The violations are as follows:

1). Fire Codes: Violations involve the alarm system. Chief Fournier has received verbal assurance that these violations will be corrected, but to date the corrections have not been made.

2). Sidewalk: Over a year ago, Eldon Macleod asked the Town Council if he could construct a sidewalk in front of Ocean Farms and set the curb line in several feet from existing curb lines of other Main Street sidewalks. The Town Council denied the request and informed Mr. Macleod that if he wished to construct a sidewalk, it would be done according to Town specifications.

During the summer of 1987, Mr Macleod constructed a sidewalk in front of Ocean Farms in violation of Town specifications and without Town permits. When confronted by Town officials, Mr. Macleod claimed to have received permission from the State to construct the sidewalk. The State was contacted and MDOT officials had no knowledge of the construction, and informed me that sidewalks were controlled by the Town and not the State.

Mr. Macleod was then asked to comply with Town specifications and refused. At this point, contact was being made through our respective attorneys. Paul Frinsko recommended that the Town modify the sidewalk in accordance with Town specifications and bill Mr. Macleod for the cost of doing so. If Mr. Macleod refused to pay, the Council could pass a special assessment to collect the funds or withhold permits until payment is made.

3). Zoning Ordinance: Ocean Farms was authorized to add an addition on to the restaurant in November 1984. The space in the building is now being used differently than the plans presented to the Board of Appeals indicated. The Town has been asking for "As Built Plans" for nearly a year. About three months ago, Paul Frinsko received assurances from Mr. Macleod's attorney that plans would be delivered to the Town office. As of this date, this has not happened. The plans are needed to determine total square footage and to determine if the parking requirements are being met.

I discussed these issues again last week with Paul Frinsko. Paul advised me that the agreement to provide "As Built Plans" has been breached by Ocean Farms and the Town has good faith reasons to believe that violations may exist. Under the circumstances, the Town Council may deny the re-application for a liquor license.

Other Business:

1. Marilyn Gass, Executive Director of the Freeport Historical Society, stated that the Historical Society wants to move some wiring from the northern side of the property and install underground wiring - they need permission from the Council as it involves passing over the B.H. Bartol Library's property; there will be no expenses incurred to the Town; Council gave their consent and the Historical Society will draft up an easement to the property.
2. Darrel Fournier, Fire Chief, has been looking into replacing a 1948 Ladder Truck and has found such a truck in Rochester, N.H.; there are 21,000 miles on the unit and 1,800 hours on the diesel engine; the unit, when new, sells for \$336,000 - Freeport's cost would be \$129,000; Fire Chief Fournier would like to put the truck out in the June Primary Election; in order for Freeport to have first refusal, the deposit would be \$12,500 and \$1200 a month paid until the voters decide; if the voters decide in favor of the truck, the \$1200/mo would be credited toward the purchase price, otherwise, the monies would be forfeited; the \$129,000 figure is based upon Freeport selling their old 1948 to them for \$6,000.

Moved and Seconded - To introduce an item not on the printed Agenda.
(Councilors Nelson & Paterson) (6 Ayes) (0 Nays)

ITEM #33-88 Be It Ordered - That the Town Manager be authorized to sign and execute a Contract between Northern Fire Equipment, Inc., and the Town of Freeport providing for a deposit of \$12,500 towards the purchase of a 1982 Gruman Aerial Ladder Truck.

Be It Further Ordered - That the \$12,500 be drawn from the Equipment Reserve Account.
(Councilors Nelson & Stevens) (6 Ayes) (0 Nays)

Moved and Seconded - That the Council recess for five minutes.
(Councilors Nelson & Stevens) (6 Ayes) (0 Nays)

Moved and Seconded - That the Town Council enter into Executive Session with the Town Attorney to discuss the Town's legal rights and responsibilities regarding an Architectural Services Contract dispute (Grove Street Municipal Building).
(Councilors Goddard & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the Council reconvene.
(Councilors Nelson & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the Council adjourn at 11:02 P.M.
(Councilors Nelson & Paterson) (6 Ayes) (0 Nays)

The foregoing was recorded by:
Mary D. Wescott
Mary D. Wescott, Council Secretary

Dist: Council, Town Attorney, Auditor, Town Clerk, Supt. of Schools, Library,
Highway, Police, Fire, Codes, Planner, Finance