

**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #3-2001**  
**TOWN HALL COUNCIL CHAMBERS**  
**February 6, 2001 – 7 P.M.**

<b><u>CHAIRPERSON'S CALL TO ORDER:</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>	<b><u>Excused</u></b>
John Arsenault, Chairperson Prout Road	X		
Robert Stevens, Vice Chairperson Porters Landing			X
Genie Beaulieu, Larue Drive	X		
David Soley Arnold Road	X		
Kenneth Mann Mann Road	X		
Karen Bricklemyer Bears Run	X		
Eileen Lowell South Freeport Road			X

NOTE: Councilor Stevens participated by phone.

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**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF MEETING #2-2001 HELD ON JANUARY 16, 2001 AND ACCEPT THE MINUTES AS PRINTED.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETING #2-2001 HELD ON JANUARY 16, 2001 AND ACCEPT THE MINUTES AS PRINTED. (Councilors Bricklemyer & Beaulieu) (5 Ayes) (2 Excused—Lowell & Stevens).

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

No public comments were made.

**MOVED AND SECONDED:** To close the Public Comment Period (Councilors Soley & Beaulieu) (5Ayes) (2 Excused—Lowell & Stevens).

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

COUNCIL MEETING #3-01  
February 6, 2001

Item #30-01 To consider action relative to adopting the February 6, 2001 Consent Agenda Item #26-01 to #29-01.

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**BE IT ORDERED:** That the February 6, 2001 Consent Agenda be adopted. (Councilors Soley & Bricklemyer)

Mr. Olmstead explained the Grant Funds in the amount of \$19,150 that were received and will provide for the purchase of a portable message board. The Council concurred that Mr. Olmstead should express the Council's gratitude to the Chief for obtaining this grant.

**ROLL CALL VOTE:** 5 Ayes (2 Excused—Lowell & Stevens).

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Item #31-01 To consider action relative to an application for a Community Action Planning Grant. **Public Hearing**

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**MOVED AND SECONDED:** That the Public Hearing be opened. (Councilors Beaulieu & Bricklemyer) 5 Ayes (2 Excused—Lowell & Stevens).

Councilor Beaulieu explained that this grant is in the amount of \$10,000 and will be used to continue the study of the downtown area. Michelle Hart added that this money will be used to hire a consultant to look at the retail mix and make Freeport more of a destination. The train station is part of the 2010 project.

**MOVED AND SECONDED:** That the Public Hearing be closed. Councilors Soley & Beaulieu) (5 Ayes) (2 Excused—Lowell & Stevens).

**BE IT ORDERED:** That the Town of Freeport sponsor the proposed Community Action Planning Grant. (Councilors Beaulieu & Soley)

**ROLL CALL VOTE:** (5 Ayes) (2 Excused—Lowell & Stevens).

Mr. Olmstead wanted the minutes to reflect that Councilor Stevens participated by phone conferencing but Freeport's Charter says that a Councilor has to be physically present to cast a vote.
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Item #32-01 To consider action relative to proposed amendments to the Zoning Ordinance adopting a Retirement Community Overlay District.  
(Chapter 21) **Public Hearing**

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**MOVED AND SECONDED:** That the Public Hearing be opened. (Councilors Mann & Bricklemyer) (5 Ayes) (2 Excused—Lowell & Stevens).

Town Planner Larson explained that this is something the Planning Board has been working on in recent months at the request of the Hawthorne House on the Old County Road. She answered questions for Councilors.

**MOVED AND SECONDED:** That the Public Hearing be closed. (Councilors Beaulieu & Bricklemyer) (5 Ayes) (2 Excused—Lowell & Stevens).

**BE IT ORDERED:** That the proposed amendments to the Zoning Ordinance be approved. (Councilors Mann & Beaulieu) **ROLL CALL VOTE:** (4 Ayes) (1 Recused—Soley, his office is involved with applicant), (2 Excused—Lowell & Stevens).

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Mr. Olmstead explained that after removing the snow that fell yesterday there will only be enough money left in the salt account and overtime account for one more storm. There is approximately \$30,000 left in the Miscellaneous and Contingency Account and he requested that the Council authorize him to spend money from this account if he needs to. Discussion followed.

**MOVED AND SECONDED:** To introduce an item not on the printed agenda (Councilors Beaulieu & Soley) (5 Ayes) (2 Excused—Lowell & Stevens).

**ITEM: #33-01**

To consider action relative to expenditures from the fiscal year 2001 Miscellaneous and Contingency Account.

**BE IT FURTHER ORDERED:** That the Town Manager be authorized to expend funds from the fiscal year 2001 Miscellaneous and Contingency Account to provide for winter road operations. (Councilors Beaulieu & Soley)

**MOVED AND SECONDED:** To authorize up to \$25,000 (Councilors Mann & Beaulieu) (5 Ayes) (2 Excused—Lowell & Stevens).

**ROLL CALL VOTE:** (5 Ayes) (2 Excused—Lowell & Stevens)

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Chair Arsenault asked to be excused. Vice Chair Beaulieu took over the gavel.

**OTHER BUSINESS:**

**Report from Municipal Facilities Committee**—Councilor Soley explained that the first issue is in reference to the proposed Freeport Community Building. Numbers are being worked on but at some point a recommendation will be made to the Town Council for a bond issue in November. This will be a \$3mm project with the bulk coming from private contributions and grants. Discussions have taken place on incorporating some parts of Town Hall as well as the Freeport Administrative Building into the Freeport Community Building under a rental agreement.

Councilor Soley pointed out that FCS is taking a risk to improve our community and their representatives have asked for a consensus from the Council that it will support FCS in this project and stand behind them if they experience a disastrous outcome. Ed Bradley clarified some points for the Council and stressed that they will need to make a decision to go forward in March. Mr. Olmstead had some suggestions. Discussion followed. Councilor Beaulieu cautioned about having enough money for the project.

Vice Chair Beaulieu clarified that the consensus is that the Council will support this item and that Mr. Olmstead should determine what the Town's space needs are.

**Discussion on letter from the Coastal Waters Commission concerning clam flat closures**

Steve Lechner advised that he will be chair of this commission for 45 days. He explained the letter he sent to Mr. Olmstead regarding clam flat closures. DMR is asking that the harbor be reconfigured. Mr. Olmstead noted that the Harbor Master has come up with a plan to address the immediate concerns of MDR in a mini reconfiguration. He asked that the Council authorize him to work with the Town Attorney and MDR to come up with a game plan to take care of some of these issues. He will involve the Harbor Master as well. He also suggested that the reconfiguration discussion be handled in a workshop on February 27 with Coastal Waters. Discussion followed.

Councilors concurred that Mr. Olmstead should contact the Town Attorney and the Town Attorney should begin working with DMR.

Mr. Lechner noted that he and others will be leaving the Coastal Waters Commission and it is important that qualified people be found to serve on it because these are important issues. Attendance has been a problem for this commission. Mr. Olmstead advised the public that the Town is looking for applicants for the Coastal Waters Commission.

**Discussion on the Landfill Leachate collection system**

Mr. Olmstead drew up a map for the benefit of people not familiar with the landfill and pointed out a lagoon, existing piping system, demolition site, recycling building and storage of metals, wood, etc. The DEP suspects that something is wrong with the leachate system but is not going to make the Town dig it up. They would like the Town to enlarge the lagoon to permit more storage and begin trucking the contaminated material off site. This could mean tens of thousands of dollars. Mr. Olmstead advised an

**COUNCIL MEETING #3-01**

**February 6, 2001**

alternative would be to eliminate this system and go with an underground storage tank, collect the leachate from the landfill and pump it out once or twice a year or whenever it fills up. Mr. Olmstead met with 6 members of the DEP and their enforcer cautioned about discharges into bodies of water. They recommended testing materials before closing out the lagoon. It may cost more than \$100,000. If some of the collection system falls under mitigation, the DEP may have to pay for 90% of the testing and closing out and they, too, have a problem with providing funding. The testing is being done right now. Discussion followed. The Council will see all these items when they get the Capital Budget.

**Report on Freeport Bond Sale**

Mr. Olmstead advised that the Town had a successful sale of nearly \$5mm in bonds. Roosevelt and Cross purchased all the bonds sold at 4.542%. This is positive news.

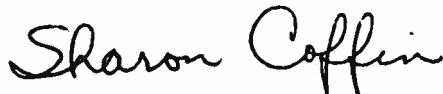
**Discussion on the Town's web site.**

Mr. Olmstead advised that the Town's web site is terrible, not useful and not up-to-date. He mentioned all the services that could be provided over a web site. Money needs to be spent to develop and maintain a good web site. The cost of developing and maintaining a good web site, is probably \$8,000-10,000 a year. He proposes that Freeport sell ads to pay for the web site as other towns are doing to merchants, restaurants, etc. Internal guidelines will be developed. Councilor Bricklemyer suggested that high school students be asked to develop web sites. Discussion followed.

**ADJOURNMENT**

**MOVED AND SECONDED:** To adjourn at 9:43 p.m.  
(Councilors Soley and Bricklemyer) (5 Ayes) (2 Excused—Lowell & Stevens).

Respectfully Submitted,



Sharon Coffin  
Council Secretary

**CONSENT AGENDA  
FEBRUARY 6, 2001  
COUNCIL CHAMBERS  
7:00 PM**

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**Item #26-01** To consider action relative to the approval of Malt, Spirituous and Vinous Liquor Licenses for the Freeport County Club, The Lobster Cooker and the China Rose.

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**BE IT ORDERED:** That the following license applications be approved:

Michael J. Olsen d/b/a Freeport County Club, 2 Old County Road  
Michael Marino d/b/a The Lobster Cooker, 39 Main Street  
Ly-Su Corporation d/b/a China Rose Restaurant, 23 Main Street

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**Item #27-01** To consider action relative to the approval of a Public Peddlers application for Scott Miller.

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**BE IT ORDERED:** That the following license application be approved.

Scott Miller, 54 Highland Avenue, South Portland, Maine.

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**Item #28-01** To consider action relative to the approval of a Victualer's License for the China Rose.

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**BE IT ORDERED:** That the following license application be approved.

Cuong Ly d/b/a China Rose Restaurant, 23 Main Street.

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**Item #29-01** To consider action relative to the acceptance of Grant Funds from the Maine Department of Public Safety Justice Assistance Council.

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**BE IT ORDERED:** That Grant Funds in the amount of \$19,150 be accepted providing for the purchase of a portable message board from the American Signal System Company of Atlanta, Georgia.

**ADOPTED  
PROPOSED AMENDMENTS  
FREEPORT ZONING ORDINANCE  
CHAPTER 21**

**Section 104. Definitions**

**Nursing Home:** An institution which provides nursing, convalescent or assisted living care for consideration to chronic or convalescent patients, but does not provide services such as an operating room, x-ray facilities and laboratory facilities, except as incidental to the delivery of the nursing, convalescent or assisted living care. Where a permitted use, nursing homes served by public sewer and water shall have a density no greater than one bed per two thousand (2,000) square feet of net residential acreage; nursing homes not served by public sewer and water shall have a density no greater than one bed per six thousand (6,000) square feet of net residential acreage.

When incorporated into a planned unit development, a nursing home may include, as accessory uses, residential units and board, health clinics, adult day care and related services in compliance with the requirements of this Ordinance. If residential dwelling units are part of a nursing home development, they shall meet all space standards of the District in which they are located.

When incorporated into a retirement community within a Retirement Community Overlay District, the net residential density requirements for a nursing home shall be as set forth in the Retirement Community Overlay District.

**Section 531. Retirement Community Overlay District**

**A. Purpose**

The Retirement Community Overlay District is intended to provide flexibility and creativity in the design and development of retirement communities that provide a continuum of care and a range of living environments for older residents in locations that are appropriate for this type of development. The overlay district is designed to foster high quality communities that are an asset to the Town while assuring that these developments are good neighbors.

**B. Effect of Designation as an Overlay District**

The Retirement Community Overlay District is intended to function as an overlay district. As such, the requirements of the underlying zoning district will remain in force and will apply to all use of land and buildings within the Overlay District except as specifically modified by the provisions of this Section 531. The designation of an Overlay District is intended to recognize that a planned retirement community has special considerations that do not apply to other uses and to allow for additional flexibility in the permitting of these uses in return for an increased level of community oversight.

### **C. Definitions Applicable in the Retirement Community Overlay District**

1. **Care bed.** A resident's bed located within an elderly housing room and designed to be occupied by only one person.
2. **Elderly housing dwelling unit.** A room or group of rooms within a retirement community designed and equipped as living quarters for one elderly household, including living, sanitary, sleeping and kitchen facilities, and not located within a multi-unit building which also contains central dining facilities in which meals are made available to residents as part of a supportive services program.
3. **Elderly housing unit.** A room or group of rooms within a retirement community designed and equipped for occupancy by one elderly household, including living, sanitary and sleeping facilities, but not including kitchen facilities, except that kitchen facilities may be provided if the room or group of rooms is located within a multi-unit building which also contains central dining facilities in which meals are made available to residents as part of a supportive services program.
4. **Elderly housing room.** A room within a retirement community that is not part of an elderly housing dwelling unit or an elderly housing unit, which contains sleeping facilities and may contain sanitary facilities, but does not contain kitchen facilities or living facilities.
5. **Elderly person.** A person age 55 or older.
6. **Elderly household.** A household which includes at least one elderly person and no occupant less than 55 years of age unless any such occupant less than 55 years of age is a fulltime caregiver to the elderly person, or the spouse or companion of the elderly person.
7. **Kitchen.** A room or portion of a room equipped for the preparation of full meals, including, at minimum, a range (or built-in cooking top and oven), a sink and a refrigerator.
8. **Nursing home.** As defined in Section 104, including those facilities categorized under state and federal law as "assisted living facilities." A nursing home may include non-elderly persons with disabilities as residents.
9. **Retirement community.** A planned community which provides housing for elderly households in a variety of housing types, at least some of which are elderly housing dwelling units or elderly housing units; which may include a nursing home; which can accommodate at least 150 residents; which provides a variety of levels of care



and a range of services to elderly households; and which is designed to provide a sense of unified development with a common design character.

10. Senior center. A building or portion of a building located within a retirement community and used for recreational, social, educational or cultural activities designed primarily for elderly persons.

#### **D. Designation of a Retirement Community Overlay District**

The Town Council may designate any area of 30 acres or more, which will be served by public water and sewer, as a retirement community overlay district, utilizing the procedures for amending this ordinance under Section 203 and in accordance with the requirements of state law for zoning amendments.

#### **E. Submission Requirements**

If the request for the designation of a Retirement Community Overlay District is initiated by the owners of the property within the proposed overlay district, the request shall be accompanied by the following submissions, which shall be in addition to the submissions required by Section 203:

- a. A narrative description of the range of care and service options to be offered and a discussion of how these are consistent with the definition of a retirement community.
- b. A conceptual master plan drawn to scale and showing, in general terms, the proposed location and size of buildings, roads and drives, parking areas, recreational facilities, and other development features. The conceptual master plan shall be prepared by a registered landscape architect, registered architect, or registered professional engineer. The scaled plan shall show in a conceptual nature the primary drainage features and patterns of the proposed district, environmentally sensitive areas, prime development areas, potential points of vehicular access, and other significant manmade and natural features of the proposed district.

#### **F. Amendments or Expansions**

The Town Council may modify or expand the boundaries of a Retirement Community Overlay District at any time, following the same procedures and standards as used in the creation of the district.

#### **G. Repeal**

The Town Council may repeal a Retirement Community Overlay District created at the request of the property owners within the district and terminate all rights in the overlay provisions if:

1. Necessary Subdivision and/or Site Plan approvals have not been obtained for the retirement community within two (2) years of the Town Council's vote to create the overlay district, and/or
2. Substantial construction has not begun on the improvements shown on the approved Subdivision and/or Site Plan within three (3) years of the Town Council's vote to create the district.
3. The use of the property no longer qualifies as a Retirement Community as defined in section C above.

#### **H. Subdivision and/or Site Plan Approval**

All retirement communities, as defined in this Ordinance, are subject to Subdivision and Site Plan Review.

Once a Retirement Community Overlay District has been designated, all applications for Subdivision and/or Site Plan approval shall be generally consistent with the conceptual master plan if such a plan was submitted as part of the designation process. A plan for Subdivision and/or Site Plan approval shall be deemed generally consistent with the conceptual plan provided there are no changes to items such as increased density, additional buildings, reduction in buffers, or significant changes in parking areas and/or road layouts

An applicant for an approval that is subject to a conceptual master plan may request a change to the master plan by filing a revised plan with the Town Council. A change may include, but is not limited to, items such as increased density, additional buildings, reductions in buffers, or significant changes parking areas and/or road layouts. The Council shall consider the submission as an amendment to the district designation and shall use the same procedures and approval standards as for the initial designation of a district.

#### **I. Permitted Uses**

In addition to the uses allowed in the underlying zoning district, the following uses shall be permitted uses in any Retirement Community Overlay District:

1. Elderly housing dwelling units
2. Elderly housing units

3. Nursing homes
4. Supportive facilities as part of a retirement community including, but not limited to, administrative facilities, dining facilities, care facilities, common areas, recreational spaces and facilities, maintenance facilities, and similar facilities necessary for the operation of the retirement community or the provision of services to the residents or that provide services or activities for residents of the retirement community and other elderly people and/or people with disabilities, such as healthcare, physical therapy, speech therapy, occupational therapy, rehabilitation services, financial services, personal care services, and other convenience services that meet the day-to-day needs of the residents of the community
5. Day care centers for children
6. Day care centers for adults
7. Senior centers

#### **J. Space and Bulk Standards**

Notwithstanding the requirements of the underlying zoning district, a retirement community and all uses, buildings and structures associated with it shall be governed by the following provisions:

1. Minimum site and lot size – a retirement community shall include a minimum of thirty (30) acres.
2. Maximum net residential density for elderly housing dwelling units – one elderly housing dwelling unit per six thousand (6,000) square feet of net residential acreage within the retirement community.
3. Maximum net residential density for elderly housing units – one elderly housing unit per three thousand (3,000) square feet of net residential acreage within the retirement community.
4. Maximum net residential density for care beds – one care bed per two thousand (2,000) square feet of net residential acreage within the retirement community.
5. Maximum lot coverage – the maximum lot coverage of the entire parcel shall be not more than 25%.

6. Minimum building separation – no detached building or structure shall be located closer than 10 feet to any other building or structure within the retirement community.
7. Setback requirements from adjacent properties – buildings and structures of the following heights must maintain the following minimum setbacks from the external perimeter boundary of the retirement community:

<u>Height</u>	<u>Minimum Setback</u>
Less than thirty (30) feet	fifty (50) feet
Between thirty (30) feet and thirty-five (35) feet	ninety (90) feet

#### **K. Parking requirements**

A retirement community shall provide off-street parking in compliance with the requirements of Section 514 of this Ordinance in the following numbers:

1. One parking space for each employee based on the expected average number of employees per largest shift; and
2. One parking space (which may include garage spaces and single width driveways) for each elderly housing dwelling unit; and
3. One parking space for every two elderly housing units; and
4. One parking space for every three care beds.

The Planning Board may modify the parking requirements if the applicant for the retirement community demonstrates that a reduction in the number of spaces is appropriate due to the particular circumstances of the proposed development.

#### **L. Development Along Adjacent Roads**

When the development proposal provides for the construction or expansion of a building within seventy-five (75) feet of an existing road on the perimeter of the retirement community site, special consideration shall be paid to the design of the building and site to be compatible with other development along the road. In general, buildings shall be designed so that they front on the road, or as an alternative, do not turn their backs to the road. No service or storage area shall be located between the building and the road. Vehicular access shall be from internal streets or combined entrances where practical. Parking lots shall be located on the retirement community side of these buildings where

practical rather than between the buildings and the existing road. If a sidewalk or pedestrian way exists along the existing road, provisions shall be made to extend this past the site and to link it with the planned buildings.

#### **M. Design Elements**

The design of the retirement community shall reflect an overall sense that the entire community is part of a single development with a pedestrian friendly, neighborhood scale. As such, the buildings shall convey a common character but need not be similar in either design or scale. Common elements such as signs, lighting, and site furniture and improvements should be used where practical to establish a sense of community. Where appropriate, provisions for pedestrian and cart linkages should be made to bring the elements of the retirement community together. In general, high intensity/high traffic uses and core facilities should be sited in central locations within the community where feasible, with lower intensity uses on the perimeter.