

Clerk

**TOWN COUNCIL MEETING #13-2001
AUGUST 7, 2001 - 7:00 P.M.
TOWN COUNCIL CHAMBERS**

SUMMARY AGENDA

ITEM #128-01 To consider action relative to a proposed amendment to the Zoning Map (170 Main Street - Map 13, Lot 10) re-zoning from Village I to Village Commercial II. (Public Hearing).

ITEM #129-01 To consider action relative to an Agreement for the Purchase and Sale of Real Estate between the Town of Freeport and Alan and Vera Rogers (Tax Map 17, Lot 47B, 47G, 47H and 48).

ITEM #130-01 To consider action relative to an appointment to the Board of Appeals.

ITEM #131-01 To consider action relative to the appointment of a NET Program Advisory Committee.

ITEM #132-01 To consider action relative to a proposed November 6, 2001 referendum question in the amount of \$1,500,000 to provide partial funding for a Freeport Community Center.

OTHER BUSINESS:

1. Presentation and recommendation of the Community Center Coalition and the Municipal Facilities Committee.

ITEM #133-01 To consider action relative to an Executive Session to discuss the potential leasing of Town Property.

Adjourn.

AGENDA
FREEPORT TOWN COUNCIL MEETING #13-2001
TOWN HALL COUNCIL CHAMBERS
AUGUST 7, 2001 – 7:00 P.M.

SPECIAL NOTE: This agenda is a working agenda that includes background information and is for distribution to Council members only.

FROM: Dale C. Olmstead, Jr.

TO: John Arsenault, Chairperson, Prout Road
Robert Stevens, Vice Chairperson, Porters Landing
David Soley, Arnold Road
Genie Beaulieu, Larue Drive
Kenneth Mann, Mann Road
Eileen Lowell, South Freeport Road

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of #12-2001, July 24, 2001 Meeting and accept the Minutes as printed.

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

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

COUNCIL MEETING #13-2001
AUGUST 7, 2001

ITEM #128-01 To consider action relative a proposed amendment to the Zoning Map (170 Main Street – Map 13, Lot 10) re-zoning from Village I to Village Commercial II. (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed amendment to the Freeport Zoning Map be approved.

ITEM #129-01 To consider action relative to an Agreement for the Purchase and Sale of Real Estate between the Town of Freeport and Alan and Vera Rogers (Tax Map 17, Lot 47B, 47G, 47H and 48).

BE IT ORDERED: That the Agreement for the Purchase and Sale of Real Estate between the Town of Freeport and Alan and Vera Rogers be approved.

ITEM #130-01 To consider action relative to an appointment to the Board of Appeals.

BE IT ORDERED: That David Crutchfield be appointed as a member of the Board of Appeals until July 1, 2004.

BE IT FURTHER ORDERED: That Mr. Crutchfield qualify by swearing an oath of office before the Town Clerk by August 17, 2001.

ITEM #131-01 To consider action relative to the appointment of a NET Program Advisory Committee.

BE IT ORDERED: That a NET Program Advisory Committee be appointed for the purpose of overseeing the program which will include goal setting, performance reviews and establish operating goals.

BE IT FURTHER ORDERED: That the Committee consist of the following representatives:

David Soley – Town Council
Dale Olmstead – Town Manager
Hedy Fillmore – Finance Director
Adam Nappi – Citizen
Darrell Fournier – Fire Chief
Paul Conley – Rescue Chief
A representative appointed by Parkview Hospital
A representative appointed by Mid-Coast Hospital
A representative appointed by a Freeport nursing home or assisted living facility

Note: Sara Cass will serve as Staff to the Committee.

COUNCIL MEETING #13-2001
AUGUST 7, 2001

ITEM #132-01 To consider action relative to a proposed November 6, 2001 referendum question in the amount of \$1,500,000 to provide partial funding for a Freeport Community Center.

BE IT ORDERED: That a Public Hearing be scheduled for August 21, 2001 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed referendum question in the amount of \$1,500,000 to provide partial funding for a Freeport Community Center.

OTHER BUSINESS:

1. Presentation and recommendation of the Community Center Coalition and the Municipal Facilities Committee.

ITEM #133-01 To consider action relative to an Executive Session to discuss the potential leasing of Town Property.

MOTION: That the Council enter into Executive Session to discuss the potential leasing of municipal property.

MOTION: That the Council reconvene.

Adjourn.

MINUTES
FREEPORT TOWN COUNCIL MEETING #13-2001
TOWN HALL COUNCIL CHAMBERS
August 7, 2001 – 7:00 P.M.

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

Chair Arsenault called the meeting to order at 7 p.m. He advised that Item 133-01 has been requested to be stricken. There is no need for it. Councilor Stevens advised that he would be reporting to the Council with respect to the draft request for proposals for Howard Place under "Other Business".

FIRST ORDER OF BUSINESS: TO WAIVE THE READING OF THE MINUTES OF MEETING #12-2001 HELD ON JULY 24, 2001 AND ACCEPT THE MINUTES AS PRINTED.

MOVED AND SECONDED: TO WAIVE THE READING OF THE MINUTES OF MEETING #12-2001 HELD ON JULY 24, 2001 AND ACCEPT THE MINUTES AS PRINTED. (Councilors Beaulieu & Stevens) (5 Ayes) (1 Excused—Soley had not arrived yet).

SECOND ORDER OF BUSINESS: Public Comment Period – 30 Minutes (Non-Agenda Items Only). Chair Arsenault asked members of the public to limit their comments to three minutes because of the heat and the fact that there is a lot of business to take up.

MOVED AND SECONDED: To open the Public Comment Period (Councilors Beaulieu & Stevens) (5Ayes) (1 Excused—Soley).

Susan Campbell of Hunter Road updated the Council on the status of the petition drive. They do have an adequate number of signatures to move forward and she noted the reasons why the public is

interested in going ahead with the petition. They will continue to gather public opinion until the end of this week and will make a decision based on the will of the people. The deadline for filing is one o'clock on Friday. She thanked everyone who took the time to discuss the issues.

MOVED AND SECONDED: To close the Public Comment Period (Councilors Soley & Beaulieu) (6 Ayes)

Upon Mr. Soley's arrival, he announced that he had changes to the minutes.

MOVED AND SECONDED: To reopen the vote on the minutes. (Mann & Beaulieu) (6 Ayes).

Councilor Soley pointed out that on Page 5, after it says "**MOVED AND SECONDED** To Amend: **BE IT ORDERED:** That the Town Council preliminary adopts and send to the Planning Board for further study, the recommendation for three areas, to the extent these areas are covered by public sewer and water, which would allow greater density to occur." Add: *Those areas are:*

On Page 9, 4., 6th line— change the word "them" to "*a third party*" in the second line after the words "Howard Place property to". Councilor Mann asked if "them" was actually said and Vice Chair Stevens agreed that he used the word "them" so Councilor Soley withdrew this change.

On Page 9, 2. after the words "back of their property" add "*Councilor Soley noted that he is not sure that the Reed Road has been abandoned but that he would vote in favor of abandonment in exchange for the Town and its citizens having an easement on the entire length of the road through to Hunter Road.*" Councilor Mann asked if he checked the tape and Councilor Soley noted that he had not but asked the Secretary to check the tape and put in exactly what he said. It will return for a vote at the next Council meeting.

MOVED AND SECONDED: To amend the minutes as noted above (Soley & Beaulieu) (6 Ayes).

Councilor Soley clarified that in this week's Minutes he wanted the record to reflect that in dealing with the Kellys, his ultimate goal was not to decide whether to give this property to them but whether or not the concept was acceptable and whether we should deal with that concept with a third party.

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

ITEM #128-01 To consider action relative a proposed amendment to the Zoning Map (170 Main Street – Map 13, Lot 10) re-zoning from Village I to Village Commercial II. (**Public Hearing**).

MOVED AND SECONDED: That the Public Hearing be opened. (Soley & Beaulieu) (6 Ayes).

COUNCIL MEETING #13-2001
AUGUST 7, 2001

Councilor Soley asked if it would make sense to table this for a few minutes to have interested parties discuss this issue amongst themselves. Councilor Mann suggested that the Council hold the public hearing tonight but not vote tonight to give relatives an opportunity to speak at the next meeting.

Chair Arsenault agreed that tabling would be in order to allow all parties an opportunity to talk.

MOVED AND SECONDED: To table this application to later in the meeting. (Soley & Stevens)
(6 Ayes).

ITEM #129-01 To consider action relative to an Agreement for the Purchase and Sale of Real Estate between the Town of Freeport and Alan and Vera Rogers (Tax Map 17, Lot 47B, 47G, 47H and 48).

BE IT ORDERED: That the Agreement for the Purchase and Sale of Real Estate between the Town of Freeport and Alan and Vera Rogers be approved. (Beaulieu & Stevens)

Mary Sauer explained that a grant was received to purchase most of the Florida Lake property. The survey has been completed and the appraisals will be ready soon. Bert Brewer and Chris Hastedt own a parcel that is adjacent to the campground and may be interested in selling their property. Councilor Stevens directed Ms. Sauer to proceed in entering a contract with Mr. Brewer and Ms. Hastedt if she is comfortable doing so. Councilor Stevens thanked Ms. Sauer, John Schwanda and Steve Walker for all their efforts in this complicated matter. Ms. Sauer thanked David and Jennifer Marstaller for their donation of land to the Town for getting the impetus going. Councilor Mann asked if any part of the Cummings property is being considered and was advised by Ms. Sauer that it is not at this time but may be considered later. Other Councilors concurred on the great job the Conservation Commission has been doing.

MOVED AND SECONDED: To Add to the proposed order: And that the Town Manager be authorized to execute the agreement. (Councilors Stevens & Soley) (6 Ayes).

ROLL CALL VOTE: 6 Ayes).

ITEM #130-01 To consider action relative to an appointment to the Board of Appeals.

BE IT ORDERED: That David Crutchfield be appointed as a member of the Board of Appeals until July 1, 2004.

BE IT FURTHER ORDERED: That Mr. Crutchfield qualify by swearing an oath of office before the Town Clerk by August 17, 2001. (Councilors Stevens & Beaulieu) **ROLL CALL VOTE:** (6 Ayes)

ITEM #131-01 To consider action relative to the appointment of a NET Program Advisory Committee.

BE IT ORDERED: That a NET Program Advisory Committee be appointed for the purpose of overseeing the program which will include goal setting, performance reviews and establish operating goals.

BE IT FURTHER ORDERED: That the Committee consist of the following representatives:

David Soley John Arsenault - Town Council
Dale Olmstead - Town Manager
Hedy Fillmore - Finance Director
Adam Nappi - Citizen

COUNCIL MEETING #13-2001
AUGUST 7, 2001

Darrell Fournier – Fire Chief
Paul Conley – Rescue Chief
A representative appointed by Parkview Hospital
A representative appointed by Mid-Coast Hospital
A representative appointed by a Freeport nursing home or assisted living facility

Note: Sara Cass will serve as Staff to the Committee. (Mann & Stevens)

Councilor Soley advised that his law firm represents Mid-Coast Hospital as well as Northeast Ambulance and he would be happy to stand down if Councilors have any problem. Councilor Mann agreed that this puts Councilor Soley in a difficult position.

MOVED AND SECONDED TO AMEND: That John Arsenault be the Council representative. (Soley & Stevens) (6 Ayes).

Fire Chief Fournier explained the purpose of the Advisory Board.

ROLL CALL VOTE: (6 Ayes).

ITEM #132-01 To consider action relative to a proposed November 6, 2001 referendum question in the amount of \$1,500,000 to provide partial funding for a Freeport Community Center.

BE IT ORDERED: That a Public Hearing be scheduled for August 21, 2001 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed referendum question in the amount of \$1,500,000 to provide partial funding for a Freeport Community Center. (Councilors Lowell & Stevens).

Chair Arsenault asked Vice Chair Stevens to conduct the meeting while he went to the podium. He explained that he and Vaughndella Curtis have been appointed as co-chairs of the Community Center Coalition. The center will be located in the DeLorme building at the south end of Main Street. He explained what services would be located at this facility. Councilor Stevens asked everyone in attendance planning to speak to Item 1. under "Other Business" to join in on this discussion. Ed Bradley explained that they have worked for two years to bring the concept to where it is now. He answered questions for Councilors and discussion followed.

ROLL CALL VOTE: (6 Ayes)

133-01 To consider action relative to draft request for a proposal for Howard Place land.

Councilor Stevens passed out his attempt at drafting a request for lease proposals from the Town of Howard Place land. He and the Town Manager met with Ed Haddad and Mr. Haddad has made himself available to work with the Town to help in this matter. Councilor Stevens included comments made by fellow Councilors on important matters. The property is approximately 175' x 300' located at the end of Howard Place between The Gap and the Lobster Cooker. It has approximately 117-120 parking spaces that the Town makes available to merchants that gave up space to link parking and promote better traffic flow. Approximately 54 spaces are used for this purpose and the additional spaces could be leased out which may not be the best use for this space. Important things to consider are:

COUNCIL MEETING #13-2001
AUGUST 7, 2001

1. The lease of the land by the Town and its rights to receive rent under that lease would not be subordinated to any financing that the developer would have for the development of the property. If the developer defaulted on its mortgage loan, the Town's rent would be a first lien on the property and the Town's interest as landlord could not be wiped out. The Town wants to know what its rent will be on a net, net basis so that it knows exactly how much it will be receiving and the tenant would be responsible for all other expenses on the property. What would be proposed as rent starting out, what increases might be proposed. Perhaps an additional percentage rate. What term a tenant would be interested in and what the renewal terms will be.
2. We must have provided to us 117 spaces or its permitted equivalency within a quarter of a mile of the land. The obligation to provide the parking would run with the land

Councilor Mann noted that this could present a problem because parking needs to be in the VC-I District. Councilor Soley suggested dropping the quarter of a mile reference and only indicate that they need to be in the VC-I. Discussion followed.

The spaces must be available from the time of substantial completion of the development of the land. This also may present a problem because at the time that ground is broken for development, it will be not available for parking. Councilor Mann noted that this could be tied to an occupancy permit.

3. Proposers will be asked to describe their proposed development, including their intended use, etc. Councilor Beaulieu suggested adding something about pedestrian and bicycle connectors to the school. Chair Arsenault mentioned that parking spots need to be available on site for people attending school sporting events. Councilor Mann suggested asking for a sketch plan and other Councilors concurred. Councilor Beaulieu asked that parking spaces on site be included on the sketch plan.
4. Describe the number of parking spaces per 1,000 sq. ft. of gross floor area—Councilor Mann suggested that the standards of the Ordinance be met. If there are exceptions, they need to be clearly indicated.
5. Describe the proposed replacement parking and that something doesn't happen that the applicant can't come up with the necessary parking.

Councilor Stevens will add the provision by Councilor Mann if the proposal deviates from the existing Ordinance of the Town of Freeport and then discuss the background of applicants.

Councilor Stevens took a crack at the bid process and came up with 10% of the amount of the proposed first four years rent. Councilors agreed to leave this in.

Councilor Soley pointed out that a consultant was going to do all this work for \$7,500 and Councilor Stevens did it as a volunteer. Councilor Stevens indicated that Mr. Haddad will need to be paid and this will be worked out.

Councilor Mann asked how this proposal would be advertised. Mr. Olmstead noted that this would be mailed to developers and will also be advertised in newspapers. A deadline of September 13, 2001 at 4:30 was agreed upon by Councilors. Councilor Mann noted that good projects need good planning.

MOVED AND SECONDED: for consensus (Soley & Stevens) (5 Ayes) (1 Nay—Mann).

MOVED AND SECONDED: To put ITEM #128-01 back on the table. (Soley & Beaulieu)
(6 Ayes)

Councilor Soley explained that a consensus was not reached in the discussion that took place earlier. Donna Larson explained that this amendment was reviewed by the Planning Board. They voted 4-1 to recommend that the Town Council approve it. Attorney, David Laurie of Cape Elizabeth, representing the applicants, thanked the Council for permitting a discussion to take place before the item was taken up on the agenda. He explained that the Dietrich's daughter, Camille, a glass blowing artist, is soon to graduate from college. Her parents, Dr. and Mrs. Dietrich are interested in providing a low overhead operation for her to both produce and retail her art. They intend to remain at this location and continue with their dentist office. The existing Village I zoning will not accommodate this type of business. He asked for an opportunity to speak after members of the public provided their comments and mentioned that Dr. and Mrs. Dietrich are in attendance and can answer questions if necessary.

Chair Arsenault pointed out that the Council received a letter from Shari Broder and Eric Bryant of 12 East Street opposed to this amendment. Lorana Coffin of Maple Avenue noted her concerns with increased traffic, noise, signage and the seemingly endless creep of commercialism even though there are many empty stores in town. Gordon Hamlin of Chapel Street outlined his tenure on several Town Boards. He noted that this request is poor planning and does not comply with the intent of the Comprehensive Plan. Martha Berry of 193 Main Street advised that this neighborhood is very nice and she would not want the Council to set a precedent by changing the zone. Nicolette Taggart of 7 Chapel Street explained that she likes roller blading and biking on her street and is afraid there will be more cars. Her little brother is just learning to bike and the addition of more cars will make it dangerous for him. Peter Taggart of 7 Chapel Street advised that he is not opposed to growth and development but it should be planned appropriately. It is important to strive to preserve the really successful village neighborhoods and would not want to see this amendment passed. He noted that this proposal is not consistent with the Comprehensive Plan or the 2010 Vision Plan. He suggested that compromises be sought without a zone change for this purpose. Marie McCann, resident of 39 years at 39 Chapel Street, is concerned with creeping commercialism and would like to see a compromise occur in the V-I District to accommodate this particular use.

Dr. Eugene Dietrich advised that 700-800 sq ft. is needed for the retail business. The furnace needed for this business will exist in their old doll house which is 15 years old.

Jim Sartorus of White Cedar Inn advised that the Dietrichs are very family oriented and intend to stay at this location for many years. They are proud of their property. He is in support of Dr. Dietrich's proposal. Mary Ann Taggart of 7 Chapel Street pointed out that this decision should not be based on the Dietrich's personal situation because there is no way of knowing how long a family will stay in a particular location. Chip Gray of the Harraseeket Inn advised that the Dietrichs are excellent neighbors and they are trying to meet all the requirements to make Camille's business legal. He is all for the zone change. Alexandra Dietrich, 16, lifelong resident at this location, noted that she is proud of her parents for trying to help her sister. She addressed many of the concerns raised by their neighbors. She asked the Council to rezone this property. Annette Dietrich advised that her daughter, Camille, is taking classes and couldn't be in attendance tonight. She pointed out that the biggest concern is for the future and what will come down the line. She mentioned the built in system of Planning Board and Design Review Board that will monitor what comes into town.

MOVED AND SECONDED: That the Public Hearing be closed. (Soley & Stevens) (6 Ayes).

BE IT ORDERED: That the proposed amendment to the Freeport Zoning Map be approved. (Soley & Beaulieu) (no vote was taken)

Councilor Mann recently reviewed pictures of the old Universalist Church and mentioned that the Town has been fortunate in that the owners of this property have maintained the appearance of a church building where people can come and take pictures of it. He agreed with everyone's comments this evening. He mentioned that should this amendment not pass, the Council consider amending the V-I on Route One to allow the properties to have some limited retail that goes beyond the 600 sq. ft. allowed under a home occupation. This could be a remedy for the neighborhood and also for the Dietrichs. Councilor Stevens shared the difficulty of making a decision based upon what the property may be used for under the Zoning Ordinance. He views Route One North as being important to the Town just the way it is. He would not like to see commercialism creep up the street and will vote against this change.

Councilor Soley asked the Town Planner if the artist conducted her art at this location but did not retail it from there, would the Town be worked up about it. Ms. Larson added that she would like to talk to Fred Reeder but perhaps this business could be viewed as a home occupation, being a daughter of the owners of the house, if she didn't exceed the square footage allowed. She noted that perhaps an argument could be made for this particular business under site plan review.

Councilor Stevens suggested tabling this discussion to the next meeting to provide an opportunity for the applicant, neighbors, Codes Enforcement Officer and Planner to work something out. Councilor Lowell did not agree to a tabling. She drove through the neighborhood and discovered it is lovely. She would like to settle the issue tonight. Councilor Beaulieu clarified that this issue may not return to the Council and Councilor Stevens explained the various options that may take place.

Mr. Laurie advised that the applicant sees some benefit to a two-week tabling. Peter Taggart asked for clarification on what the neighbors can negotiate. Councilor Soley suggested that a discussion take place between the neighbors and the applicant. He suggested that perhaps the Town Manager could be of assistance. Mr. Hamlin asked if public comments would be welcomed at the next meeting and if residents would need to return. Councilor Soley urged residents to call him and other Councilors. Councilor Stevens noted that he heard everyone's comments tonight and he won't forget them in the next two weeks. Councilor Beaulieu mentioned that the Council wants

MOVED AND SECONDED: To move the question (Stevens & Beaulieu) (4 Ayes) (2 Nays—Lowell & Mann).

MOVED AND SECONDED: To table this to our next meeting on August 21, 2001. (Stevens & Mann) (5 Ayes) (1 Nay—Lowell).

Secretary's Report on Councilor Soley's comments at the July 24, 2001 meeting regarding the Reed Road:

Councilor Soley stated that he did not want to debate the abandonment issue, obviously there are different opinions, but if there is an easement, it is all solved.

COUNCIL MEETING #13-2001
AUGUST 7, 2001

Adjournment

MOVED AND SECONDED: To adjourn at 10 p.m. (Soley & Mann) (6 Ayes).

Respectfully Submitted,

Sharon Coffin

Sharon Coffin
Council Secretary