

Clerk

**TOWN COUNCIL MEETING #20-2001
DECEMBER 18, 2001 - 7:00 P.M.
TOWN COUNCIL CHAMBERS**

SUMMARY AGENDA

- ITEM #184-01 To consider action relative to approving the December 18, 2001 Consent Agenda.
- ITEM #185-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).
- ITEM #186-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).
- ITEM #187-01 To consider action relative to amendments to the General Assistance Ordinance concerning maximum levels of assistance (Chapter 46). (Public Hearing).
- ITEM #188-01 To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning licensing, hearing from appeals, waivers for conservation work and flat closures (Chapter 32). (Public Hearing).
- ITEM #189-01 To consider action relative to a proposed extension to the moratorium on processing applications for major subdivisions and to include minor subdivisions in the moratorium. (Public Hearing).
- ITEM #190-01 To consider action relative to proposed amendments to the Zoning Ordinance concerning apartments above the first floor in the Village Commercial (VC-I) Zone (Chapter 21).
- ITEM #191-01 To consider action relative to a proposed amendment to the Sign Ordinance concerning signage for properties zoned commercial that abut I-95 (Chapter 23).
- ITEM #192-01 To consider action relative to sponsoring a Community Development Block Grant Application for the Community Center Coalition.
- ITEM #193-01 To consider action relative to accepting a donation of property from David and Jennifer Marstaller.
- ITEM #194-01 To consider action relative to the current mooring fee structure.

OTHER BUSINESS:

1. Review proposed schedule for finalizing the 2002 Browntail Moth Spray Program.
2. Discussion on proposed sale of a lot on the Grant Road from the Nature Conservatory to the Town of Freeport.
3. Discussion on the formation of a Water Rescue Team.
4. Discussion on Council Committee Assignments for the coming year.
5. Discussion on workshop with the Town Attorney to discuss paper streets (recommend January 15 at 6:00 p.m.).

Adjourn.

AGENDA
FREEPORT TOWN COUNCIL MEETING #20-2001
TOWN HALL COUNCIL CHAMBERS
DECEMBER 18, 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: Robert Stevens, Chairperson, Porters Landing
John Arsenault, , Vice Chairperson, Prout Road
Kenneth Mann, Mann Road
David Soley, Arnold Road
Eileen Lowell, So. Freeport Road
Rod Regier, South Street
Susan Campbell, Hunter Road

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of #19-2001, December 4, 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 #20-2001
DECEMBER 18, 2001

ITEM #184-01 To consider action relative to adopting the Consent Agenda for December 18, 2001.

BE IT ORDERED: That the December 18, 2001 Consent Agenda be adopted.

ITEM #185-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).

MOTION: That the following re-application for an Automobile Graveyard and/or Junkyard Permit be subject to Public Hearing.

John Ingerson d/b/a Freeport Auto Parts, 2 Allen Range Road

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the re-application for an Automobile Graveyard and/or Junkyard Permit issued to the above named applicant be approved.

ITEM #186-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).

MOTION: That the following re-application for an Automobile Graveyard and/or Junkyard Permit be subject to Public Hearing.

David Bolduc d/b/a Allen Range Road Used Auto Parts, 13 Allen Range Road

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the re-application for an Automobile Graveyard and/or Junkyard Permit issued to the above named applicant be approved.

ITEM #187-01 To consider action relative to amendments to the General Assistance Ordinance concerning maximum levels of assistance (Chapter 46). (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed amendments to the General Assistance Ordinance be approved.

ITEM #188-01 To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning licensing, hearing from appeals, waivers for conservation work and flat closures (Chapter 32). (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 Shellfish Conservation Ordinance be approved.

ITEM #189-2001 To consider action relative to a proposed extension to the moratorium on processing applications for major subdivisions and to include minor subdivisions in the moratorium. (Public Hearing)

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

ORDER:

WHEREAS, with the goals of preparing for and effectively managing anticipated residential growth in the Town of Freeport, the Freeport Town Council created a Residential Growth Management Committee; and

WHEREAS, the Residential Growth Management Committee was charged with identifying growth areas, making recommendations for new subdivision regulations, making recommendations for the protection of open space, and identifying areas of special significance; and

WHEREAS, the Residential Growth Management Growth Committee has completed its work and made its recommendations to the Freeport Town Council; and

WHEREAS, the Town Council has reviewed the report of the Residential Growth Management Committee and has charged the Planning Board with the responsibility of preparing ordinance revisions and new ordinance provisions to implement the recommendations of the Growth Management Committee; and

WHEREAS, there remain many large tracts of undeveloped land in Freeport which are currently zoned to allow residential development; and

WHEREAS, the Town Council anticipates that continued residential growth in Greater Portland will put development pressure on the open land in Freeport; and

WHEREAS, until the Town completes the steps needed to implement the recommendations made by the Growth Management Committee, the application of the Town's existing Comprehensive Plan and land use ordinances is inadequate to prevent serious public harm from rapid, uncontrolled residential development; and

WHEREAS, "major subdivisions," defined in the Town of Freeport Subdivision Ordinance as "any subdivision containing more than five (5) lots, or any subdivision requiring any new public street, extension, or the extension of municipal facilities," create the greatest potential for serious adverse impact if they are developed before the Town has had the opportunity to revise, update and strengthen its land use ordinances; and

WHEREAS, the Planning staff has received indications that property owners and developers may attempt to circumvent the purposes of the moratorium by applying for minor subdivisions on tracts of land which are likely to be further divided into major subdivisions in the future; and

WHEREAS, planned retirement communities providing care and services to elderly households do not pose the same potential problems as other types of subdivisions; and

WHEREAS, the Town Council finds that the problems giving rise to the need for a moratorium continue to exist; and

WHEREAS, the Planning Board has communicated to the Town Council that it needs additional time to prepare the ordinance revisions and new ordinance provisions needed to implement the recommendations of the Growth Management Committee; and

WHEREAS, the Town Council finds that the Planning Board is working diligently and is making reasonable progress to alleviate the problems giving rise to the need for the moratorium;

NOW, THEREFORE, the Town of Freeport hereby ordains as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency of the Town of Freeport shall accept, process, approve, deny, or in any other way act upon any application for a subdivision, as defined by 30-A M.R.S.A. § 4401(4).
2. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application for a "major subdivision," as defined in Section 25-301(20) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to July 14, 2000 and to any application for a "minor subdivision," as defined in Section 25-301(21) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to December 18, 2001.
3. Effective date and duration. This Ordinance takes effect immediately upon enactment by the Freeport Town Council and shall remain in effect through June 15, 2002, unless extended, amended or repealed by the Freeport Town Council.
4. Exception for retirement communities. This Ordinance shall not apply to any subdivision which is a retirement community. For purposes of this Ordinance, "retirement community" means a planned community which provides housing for elderly persons in a variety of housing types, which provides a variety of levels of care and range of services to elderly persons, and which is designated to provide a sense of

COUNCIL MEETING #20-2001
DECEMBER 18, 2001

unified development with a common design character. For purposes of this Ordinance,

"elderly person" means a person age 55 or older.

5. Extension of Moratorium Ordinance. This Ordinance amends and extends the Town of Freeport Second Extended Moratorium on Processing Applications for Major Subdivisions, which would otherwise expire on January 10, 2002.

NOTE: The above order includes minor subdivisions. Should the Council decide not to include minor subdivisions the draft excluding minor subdivisions should be read in its place.

-
- ITEM #190-2001 To consider action relative to proposed amendments to the Zoning Ordinance concerning apartments above the first floor in the Village Commercial (VC-I) Zone (Chapter 21).

BE IT ORDERED: That a Public Hearing be scheduled for January 8, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Zoning Ordinance.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

-
- ITEM #191-2001 To consider action relative to a proposed amendment to the Sign Ordinance concerning signage for properties zoned commercial that abut I-95 (Chapter 23).

BE IT ORDERED: That a Public Hearing be scheduled for January 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Sign Ordinance.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

-
- ITEM #192-2001 To consider action relative to sponsoring a Community Development Block Grant Application for the Community Center Coalition.

BE IT ORDERED: That a Public Hearing be scheduled for January 8, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed CDBG Application for the Community Center Coalition.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

-
- ITEM #193-2001 To consider action relative to accepting a donation of property from David and Jennifer Marstaller.

BE IT ORDERED: That a donation of property, Tax Map 17, portions of Lots 21 and 22 (Florida Lake), to the Town of Freeport by David and Jennifer Marstaller be accepted.

**COUNCIL MEETING #20-2001
DECEMBER 18, 2001**

BE IT FURTHER ORDERED: That the Town Manager be authorized to sign all documents related to the donation.

NOTE: Mary Sauer will provide documents at the meeting.

ITEM #194-2001 To consider action relative to the current mooring fee structure.

BE IT ORDERED: That the Town Council direct the Coastal Waters Commission to review the current mooring fee structure, and recommend ways to reduce the present deficit between mooring fee income and the expenses of administering the coastal waters in Freeport.

NOTE: This item was requested by Councilor Regier.

OTHER BUSINESS:

1. Review proposed schedule for finalizing the 2002 Browntail Moth Spray Program.
2. Discussion on proposed sale of a lot on the Grant Road from the Nature Conservancy to the Town of Freeport.
3. Discussion of the formation of a Water Rescue Team.
NOTE: The Council will be asked to expend \$4,000 from the Fire Department Reserve Fund to fund this effort.
4. Discussion on Council Committee Assignments for the coming year.
5. Discussion on workshop with the Town Attorney to discuss paper streets (recommend January 15 at 6:00 p.m.).

Adjourn.

**TOWN COUNCIL
CONSENT AGENDA
DECEMBER 18, 2001**

ITEM #181-2001 To consider action relative to the approval of applications for Victualers Licenses.

BE IT ORDERED: That the following Victualers License applications be approved.

Ruth Simons d/b/a **Royal River Natural Foods**, 443 U.S. Route 1
Dianne Morrison d/b/a **Eagle Motel**, 215 U.S. Route 2
Dayna Riley d/b/a **Freeport Café**, 31 U.S. Route 1
Frances Doherty d/b/a **Doherty's No. Freeport General Store**, 130 Wardtown Rd.
R.E. Management, Inc. d/b/a **Kids Food Stand**, Peddler, L.L. Kids Store
R.E. Management, Inc. d/b/a **Kelley Hot Dogs**, Peddler, Polo Store
R.E. Management, Inc. d/b/a **Maine Made Ice Cream**, 76 Main Street
May Levesque d/b/a **Mlster Bagel**, 15 Depot Street

ITEM #182-2001 To consider action relative to approving a Town Council meeting schedule for January through April 2002.

BE IT ORDERED: That the proposed Town Council meeting schedule for January through April 2002 be approved.

ITEM #183-2001 To consider action relative to approval of Library Book Purchases from various trust funds.

BE IT ORDERED: That the following trust fund amounts for library book purchases be approved.

Conley Trust

Baker and Taylor	\$1,407.29
Bowker	\$1,142.55
Gale Publishing	\$ 246.14
Salem Press	\$ 314.21

Bennett Trust

Tower Publishing	\$ 130.50
Bridgeport Bindery	\$ 475.95

B.H. Bartol Trust

Family Films	\$ 240.87
--------------	-----------

End of Consent Agenda

MINUTES
COUNCIL MEETING #20-2001
FREEPORT TOWN HALL COUNCIL CHAMBERS
DECEMBER 18, 2001 – 7:00 P.M.

CHAIRPERSON'S CALL TO ORDER

Present

Absent

Excused

Robert Stevens, Chairperson
Porters Landing

x

John Arsenault, Vice Chairperson
Prout Road

x

David Soley
Arnold Road

x

Susan Campbell
Hunter Road

x

Rod Regier
South Freeport Road

x

Kenneth Mann
Mann Road

x (arrived at 7:10 p.m.)

Eileen Lowell
South Freeport Road

x

FIRST ORDER OF BUSINESS: TO WAIVE THE READING OF THE MINUTES OF MEETING #19-2001 HELD ON DECEMBER 4, 2001 AND ACCEPT THE MINUTES AS PRINTED.

MOVED AND SECONDED: TO WAIVE THE READING OF THE MINUTES OF MEETING 19-2001 HELD ON DECEMBER 4, 2001 AND ACCEPT THE MINUTES AS PRINTED (Councilors Regier & Lowell).

Chair Stevens pointed out that Paul Conley requested that the Minutes reflect that Paul Cote should be changed to Peter Gamache on pg. 5, paragraph 3 and in the second sentence, Mr. Cote should be changed to Mr. Gamache.

MOVED AND SECONDED: To amend the minutes as noted above (Councilors Soley & Lowell (5 Ayes) (2 Excused—Arsenault & Mann).

VOTE ON MOTION TO ACCEPT AMENDED MINUTES: ROLL CALL VOTE:
(5 Ayes) (2 Excused—Arsenault & Mann).

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

MOVED AND SECONDED: To open the Public Comment Period (Councilors Campbell & Regier)
(5 Ayes) (2 Excused—Arsenault & Mann).

There were none.

MOVED AND SECONDED: To close the Public Comment Period (Councilors Soley & Campbell)
(5 Ayes) (2 Excused—Arsenault & Mann).

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

ITEM #184-01 To consider action relative to adopting the Consent Agenda for December 18, 2001.

BE IT ORDERED: That the December 18, 2001 Consent Agenda be adopted. (Councilors Soley & Regier)

Mr. Regier pointed out that the Council does not have any specific time allocated at the present time for review of the Subdivision Ordinance since the Planning Board has not finished with it. Chair Stevens agreed that other councilors share this same concern.

ROLL CALL VOTE: (5 Ayes) (2 Excused—Arsenault & Mann).

ITEM #185-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).

MOVED AND SECONDED: That the application for an Automobile Graveyard and/or Junkyard Permit be subject to Public Hearing.

John Ingerson d/b/a Freeport Auto Parts, 2 Allen Range Road (Councilors Campbell & Regier) (5 Ayes) (2 Excused—Arsenault & Mann).

Mr. Olmstead explained that the code violations cited a year ago have all been corrected. Councilor Regier noted that the Police Chief has provided support for this application as well as the following application.

MOVED AND SECONDED: That the public hearing be closed (Councilors Campbell & Regier) **ROLL CALL VOTE:** (5 Ayes) (2 Excused—Arsenault & Mann).

BE IT ORDERED: That the re-application for an Automobile Graveyard and/or Junkyard Permit issued to the above named applicant be approved. (Councilors Campbell & Lowell)
ROLL CALL VOTE: (5 Ayes) (2 Excused—Arsenault & Mann).

NOTE: Councilor Mann arrived at 7:10 p.m.

ITEM #186-01 To consider action relative to an application for an Automobile Graveyard and/or Junkyard Permit. (Public Hearing).

MOVED AND SECONDED: That the following re-application for an Automobile Graveyard and/or Junkyard Permit be subject to Public Hearing.

David Bolduc d/b/a Allen Range Road Used Auto Parts, 13 Allen Range Road (Councilors Lowell & Mann) (6 Ayes) (1 Excused—Arsenault)

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Mann & Regier) (6 Ayes) (1 Excused—Arsenault)

BE IT ORDERED: That the re-application for an Automobile Graveyard and/or Junkyard Permit issued to the above named applicant be approved. (Councilors Lowell & Campbell)
ROLL CALL VOTE: (6 Ayes) (1 Excused—Arsenault)

ITEM #187-01 To consider action relative to amendments to the General Assistance Ordinance concerning maximum levels of assistance (Chapter 46). (Public Hearing).

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Mann & Campbell) (6 Ayes) (1 Excused—Arsenault)

Johanna Hanselman explained the amendments. Chair Stevens thanked her for including last year's information.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Mann & Soley) (6 Ayes) (1 Excused—Arsenault)

BE IT ORDERED: That the proposed amendments to the General Assistance Ordinance be approved. (Councilors Mann & Lowell) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault)

ITEM #188-01 To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning licensing, hearing from appeals, waivers for conservation work and flat closures (Chapter 32). (Public Hearing)

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Regier & Campbell) (6 Ayes) (1 Excused—Arsenault)

Garrett Simmons, Chair of the Shellfish Commission, pointed out the proposed changes and the reasons for the changes. Councilor Soley noted that the Board of Appeals handles appeals and asked if they could be designated to hear appeals to the Town Clerk's decisions. Chair Stevens advised that Rick Warren, Chair of the Appeals Board, is willing to take on this responsibility if the Council so chooses. Mr. Simmons did not have any objections to the Appeals Board taking on this responsibility. Mr. Simmons explained openings and closings of the flats for Councilor Mann.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Regier & Soley) (6 Ayes) (1 Excused—Arsenault)

MOVED AND SECONDED: To amend on pg. 2 in all four instances where the words "~~Town Clerk~~ Shellfish Conservation Commission" be changed to "Board of Appeals". (Councilors Soley & Regier) (6 Ayes)

BE IT ORDERED: That the proposed amendment to the Shellfish Conservation Ordinance as discussed this evening be approved. (Councilors Regier & Campbell) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault).

ITEM #189-2001 To consider action relative to a proposed extension to the moratorium on processing applications for major subdivisions and to include minor subdivisions in the moratorium. (Public Hearing)

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Soley & Campbell) (6 Ayes) (1 Excused—Arsenault).

Councilor Soley summarized the proposed extension to the moratorium. Matt Wogan read into the record a letter he wrote to Chair Stevens. Town Planner, Donna Larsen, addressed questions by the Council. Alan Caron, Vice Chair of the Planning Board explained that the Planning Board voted unanimously for this extension and change. The following people spoke: Brad Guay, Julie Coleman, Carol Southhall, George Waterman Ken Guimond

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Regier & Campbell) (6 Ayes) (1 Excused—Arsenault).

ORDER:

WHEREAS, with the goals of preparing for and effectively managing anticipated residential growth in the Town of Freeport, the Freeport Town Council created a Residential Growth Management Committee; and

WHEREAS, the Residential Growth Management Committee was charged with identifying growth areas, making recommendations for new subdivision regulations, making recommendations for the protection of open space, and identifying areas of special significance; and

WHEREAS, the Residential Growth Management Growth Committee has completed its work and made its recommendations to the Freeport Town Council; and

WHEREAS, the Town Council has reviewed the report of the Residential Growth Management Committee and has charged the Planning Board with the responsibility of

preparing ordinance revisions and new ordinance provisions to implement the recommendations of the Growth Management Committee; and

WHEREAS, there remain many large tracts of undeveloped land in Freeport which are currently zoned to allow residential development; and

WHEREAS, the Town Council anticipates that continued residential growth in Greater Portland will put development pressure on the open land in Freeport; and

WHEREAS, until the Town completes the steps needed to implement the recommendations made by the Growth Management Committee, the application of the Town's existing Comprehensive Plan and land use ordinances is inadequate to prevent serious public harm from rapid, uncontrolled residential development; and

WHEREAS, "major subdivisions," defined in the Town of Freeport Subdivision Ordinance as "any subdivision containing more than five (5) lots, or any subdivision requiring any new public street, extension, or the extension of municipal facilities," create the greatest potential for serious adverse impact if they are developed before the Town has had the opportunity to revise, update and strengthen its land use ordinances; and

WHEREAS, the Planning staff has received indications that property owners and developers may attempt to circumvent the purposes of the moratorium by applying for minor subdivisions on tracts of land which are likely to be further divided into major subdivisions in the future; and

WHEREAS, planned retirement communities providing care and services to elderly households do not pose the same potential problems as other types of subdivisions; and

WHEREAS, the Town Council finds that the problems giving rise to the need for a moratorium continue to exist; and

WHEREAS, the Planning Board has communicated to the Town Council that it needs additional time to prepare the ordinance revisions and new ordinance provisions needed to implement the recommendations of the Growth Management Committee; and

WHEREAS, the Town Council finds that the Planning Board is working diligently and is making reasonable progress to alleviate the problems giving rise to the need for the moratorium;

NOW, THEREFORE, the Town of Freeport hereby ordains as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency of the Town of Freeport shall accept, process, approve, deny, or in any other way act upon any application for a subdivision, as defined by 30-A M.R.S.A. § 4401(4).
2. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application for a "major subdivision," as defined in Section 25-301(20) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to July 14, 2000 and to any application for a "minor subdivision," as defined in Section 25-301(21) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to December 18, 2001.
3. Effective date and duration. This Ordinance takes effect immediately upon enactment by the Freeport Town Council and shall remain in effect through June 15, 2002, unless extended, amended or repealed by the Freeport Town Council.
4. Exception for retirement communities. This Ordinance shall not apply to any subdivision which is a retirement community. For purposes of this Ordinance, "retirement community" means a planned community which provides housing for elderly persons in a variety of housing types, which provides a variety of levels of care and range of services

to elderly persons, and which is designated to provide a sense of unified development with a common design character. For purposes of this Ordinance, "elderly person" means a person age 55 or older.

5. Extension of Moratorium Ordinance. This Ordinance amends and extends the Town of Freeport Second Extended Moratorium on Processing Applications for Major Subdivisions, which would otherwise expire on January 10, 2002.

NOTE: The above order includes minor subdivisions. Should the Council decide not to include minor subdivisions the draft excluding minor subdivisions should be read in its place. (Councilors Soley & Regier)

MOVED AND SECONDED: To Revise Item 189-2001 to include the following:

- 1) Add a new paragraph 5 to read:
5. Exception for certain minor subdivisions. This Ordinance shall not apply to a proposed minor Subdivision if (1) the size of the tract or parcel proposed to be divided precludes its division into more than 5 lots or dwelling units under the net residential density requirements of the Town of Freeport Subdivision Ordinance; (2) the tract or parcel proposed to be divided has not been divided from a larger tract or parcel since July 18, 2000; and (3) the property owner will suffer substantial harm if the minor subdivision application does not go forward promptly. For the purposes of this exception, the term "tract or parcel" includes all contiguous land under common ownership or control.
- 2) Change current paragraph 5 to paragraph 6. (Councilors Soley & Regier)

Councilor Regier asked Councilor Soley if he would accept a friendly amendment on the expiration date and change it to April 15, 2002. Councilor Lowell agreed. Other Councilors concurred. Councilor Soley agreed to accept the April 15, 2002 date.

Councilor Mann suggested removing #3, referring to substantial harm because it may cause people to have to disclose their financial situations. Chair Stevens likes the idea of shortening up the time and understands the viewpoint of approaching it from a harm standpoint but agrees that any standard would be difficult to establish. He would prefer to eliminate the third sentiment. Councilor Soley noted that taking out #3, the Council would be allowing most minor subdivisions.

Councilor Soley agreed to remove #3 since it would not be passed.

ROLL CALL VOTE: (6 Ayes) (1 Excused—Arsenault).

MOVED AND SECONDED: To change the fourth paragraph on pg. 3 to read: "WHEREAS The Planning Board believes that the purposes of the moratorium could best be served by including minor subdivisions on tracts of land which are likely to be further divided into major subdivisions in the future. (Councilors Stevens & Mann) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault).

MOVED AND SECONDED: To insert the word "and" between the word "Ordinance" and "(2)" in the amendment proposed by Councilor Soley and the change in date to April 15, 2002. (Councilors Soley & Mann) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault).

Councilor Mann explained that he is not convinced that the Town has a crisis that causes the Council to enact a moratorium on minor subdivisions. He would prefer that the vote be split so that he could vote against the minor subdivision moratorium but vote for supporting the major subdivision moratorium. He wanted the record to reflect his views.

ROLL CALL VOTE: (5 Ayes) (1 Nay—Mann) 1 Excused—Arsenault)

Councilor Soley asked the Council to consider empowering the Chair to examine the schedule for the Subdivision Ordinance and consider the possibility of an extra meeting or an extra workshop if he deems it appropriate to expedite it. Perhaps extra money could be spent on advertising if the Chair deems it necessary. Mr. Olmstead suggested waiting to hear from the Planning Board before attempting to schedule any meetings.

ITEM #190-2001 To consider action relative to proposed amendments to the Zoning Ordinance concerning apartments above the first floor in the Village Commercial (VC-I) Zone (Chapter 21).

BE IT ORDERED: That a Public Hearing be scheduled for January 8, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Zoning Ordinance.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens. (Councilors Campbell & Soley) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault).

ITEM #191-2001 To consider action relative to a proposed amendment to the Sign Ordinance concerning signage for properties zoned commercial that abut I-95 (Chapter 23).

BE IT ORDERED: That a Public Hearing be scheduled for January 8, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Sign Ordinance.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens. (Councilors Lowell & Soley)

Chair Stevens suggested that the wording be changed to conform to what it says in the heading. Freeport Crossing is the beginning of the C-I District and extends all the way to the Yarmouth town line. Other Councilors concurred.

MOVED AND SECONDED: To change the wording to say that Freeport Crossing is the beginning of the C-I District and extends all the way to the Yarmouth town line. (Councilors Stevens & Campbell) (6 Ayes) (1 Excused—Arsenault)

Councilor Soley requested that all these amendments be put on the website. Mr. Olmstead offered to check into this.

ROLL CALL VOTE: (6 Ayes) (1 Excused—Arsenault).

ITEM #192-2001 To consider action relative to sponsoring a Community Development Block Grant Application for the Community Center Coalition.

BE IT ORDERED: That a Public Hearing be scheduled for January 8, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed CDBG Application for the Community Center Coalition.

BE IT FURTHER ORDERED: That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens. (Councilors Mann & Lowell) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Arsenault)

ITEM #193-2001 To consider action relative to accepting a donation of property from David and Jennifer Marstaller.

BE IT ORDERED: That a donation of property, Tax Map 17, portions of Lots 21 and 22 (Florida Lake), to the Town of Freeport by David and Jennifer Marstaller be accepted.

BE IT FURTHER ORDERED: That the Town Manager be authorized to sign all documents related to the donation.

NOTE: Mary Sauer will provide documents at the meeting. (Councilors Regier & Lowell).

Mary Sauer had a copy of the survey and pointed out the boundaries. Steve Walker was also in attendance. The closing will take place before the end of the calendar year. Chair Stevens noted how wonderful this donation is for Freeport and thanked David and Jennifer Marstaller for making it possible.

ROLL CALL VOTE: (6 Ayes) (1 Excused—Arsenault)

ITEM #194-2001 To consider action relative to the current mooring fee structure.

BE IT ORDERED: That the Town Council direct the Coastal Waters Commission to review the current mooring fee structure, and recommend ways to reduce the present deficit between mooring fee income and the expenses of administering the coastal waters in Freeport.

NOTE: This item was requested by Councilor Regier. (Councilors Soley & Regier)

Councilor Regier explained how this came about. Discussion followed. Carol Chipman, Chair of the Coastal Waters Commission, pointed out that they were directed to look into creative ways of funding their operation last year so it is not something new to them. There has been some question about their authority to do this at their last

meeting. She asked for direction from the Council. Councilor Campbell asked if the Commission would have enough time to gather the info needed before its February 26 workshop meeting already scheduled with the Council. Chair Chipman noted that they would have enough time to get their information together.

Councilor Soley asked for consensus on adding "and other structures" after the words "mooring fee structure". Other Councilors concurred. Councilor Mann noted that there are a lot of people that use the Town Wharf, Cove Road, etc. and there should be some balance of appropriateness. Chair Stevens suggested removing the word "mooring" in both places and asked if it would be acceptable. **VOICE VOTE:** 6 Ayes (1 Excused—Arsenault).

Peter Thompson, John Karp, Phil Clifford and Ken Segal of Lower Flying Point shared their views on mooring fees for Flying Point residents and the fact that they do not get Harbor Master services. Mr. Segal requested a copy of the job description for the Harbor Master. Councilor Regier explained that this information is contained in the Coastal Waters' Ordinance and is available on the website. Discussion followed. Councilor Campbell asked that the Harbor Master be requested to provide data on instances where he provided services outside of the harbor.

MOVED AND SECONDED: To amend the motion to read: That the Town Council direct the Coastal Waters Commission to review and hold a public hearing on the current fee structure, and recommend ways to reduce the present deficit between fee income and the expenses of administering the coastal waters in Freeport. (Councilors Mann & Soley) **VOICE VOTE:** (6 Ayes) (1 Excused—Arsenault).

ROLL CALL VOTE: (5 Ayes) (1 Nay—Mann) (1 Excused—Arsenault).

OTHER BUSINESS:

1. Review proposed schedule for finalizing the 2002 Browntail Moth Spray Program.

Johanna Hanselman explained that the Town did not spray last year and the level of infestation has increased. Surveys indicate that more than 2,200 acres are infested with browntail webs. A preliminary survey will be mailed out at the end of December asking that those not wanting to be sprayed return a non-consent survey form to the Town before January 31, 2002. A public meeting will be scheduled with Dick Bradbury from the Maine Forest Service and Lee Bell Hicks. Ms. Hanselman hopes to get the information back to the Council on whether the Town can conduct an effective spray program sometime in February. If it is not possible for the Town to spray in some areas, residents will be advised to personally get in touch with a ground sprayer to make accommodations for their property. Councilor Soley wanted to be sure that the legal issues are explained to everyone in the event they choose to opt out. Other Councilors concurred. Councilor Campbell requested that the public informational meeting be televised. A map was displayed showing the high concentrations of browntail webs. Mr. Bradbury explained that they are concentrating in areas that have high levels of insects and large numbers of people. He identified the chemicals that will be used—Dimilin and Confirm. He answered questions. Ms. Hanselman will put as much information as possible on the website.

2. Discussion on proposed sale of a lot on the Grant Road from the Nature Conservancy to the Town of Freeport.

Mary Sauer pointed out that the record should reflect that this discussion is on the proposed "donation" not sale and it is from The Nature Conservancy. She provided a map showing the 45 acres of open space. Steve Walker had pictures of the area. Discussion followed. Councilor Mann suggested that language be provided so that the

cutting of mature trees and bushhogging to maintain open space is permitted.

Councilor Mann noted that he has received phone calls concerning the dam. Mr. Walker advised that he is hoping to maintain the pond and stabilize what is there. He is tossing around ideas on contacting Ducks Unlimited to see if they would come in and rebuild the dam or perhaps even the Army Corps of Engineers.

James Hatch brought the Council up to date on the tax-acquired Grant Road property which the Council gave to the Housing Trust two years ago. They are planning to develop two house lots for affordable housing and will give the back piece back to the Town to join with the conservation land. He explained the Habitat structure and how the mortgage is forgiven over 20-30 years.

3. Discussion of the formation of a Water Rescue Team.

NOTE: The Council will be asked to expend \$4,000 from the Fire Department Reserve Fund to fund this effort.

Chief Fournier explained that this concept is being proposed with the Town of Yarmouth to handle joint needs. Currently Freeport has a Harbor Master's boat and a Clam Warden's boat. He found this used boat on the Internet. The 50 horsepower motor has 30 hours on it. It also comes with a trailer. Each town would provide \$4,000 and training can be done at the YMCA on donated time. Discussion followed.

Councilor Mann mentioned that the Council budgets carefully every year and is cognizant of effects on the tax base. When the boat or motor fails, the Town will need to look at a new boat or a new motor. He suggested using volunteer boats as has been done in the past. He will not vote in favor of this concept at this time. Councilor Campbell had questions for the chief regarding the history of water rescue calls. Councilor Soley noted that he is in support of this proposal. Councilor Regier pointed out that the operating costs appear negligible and he can support it. Councilor Campbell would like to see this folded into the budget process for next year but is concerned about the impact on the property tax base at the present time. Councilor Regier mentioned that he feels certain this would fall within the guidelines of the Outdoor Heritage Fund and offered to provide the Chief with telephone numbers tomorrow. Councilor Lowell left and Chair Stevens noted that four votes are required to approve this. He offered to take this matter up again on January 8 as an agenda item if the boat is still available.

4. Discussion on Council Committee Assignments for the coming year.

Chair Stevens mentioned there is one slight change. Genie Beaulieu is our present representative to COG and worked her way up in seniority so that she is on the Executive Committee and the Steering Committee as well. The Town Manager will continue to receive minutes from the Executive and Steering Committee meetings. Our Representative, Genie, could also appear and report to the Council periodically. He proposed this list of assignments for this year and asked if Councilors concurred. Councilor Campbell noted that she has two assignments. Goals will be discussed on January 8.

5. Discussion on workshop with the Town Attorney to discuss paper streets (recommend January 15 at 6:00 p.m.).

Mr. Olmstead noted that at the last Council meeting, several Councilors indicated that they would like to have a workshop with the Town Attorney to have some legal questions answered. He spoke with Jeff Hold who has a lot of knowledge on paper streets, easements, etc. He noted that if he had the Council's questions in advance, 60 minutes would be sufficient. After looking at the Council's schedule, he is recommending that the workshop take place on January 15 at 6 p.m. This will be a workshop provided annually under the agreement the Town has with the law firm. Councilor Regier asked that the workshop be televised. Written questions from the public can also

**MEETING #20-2001
December 18, 2001**

be gathered by the Council Chair. He will sort them out and submit them to the Town Attorney. Chair Stevens mentioned publicizing this on the website. The questions will need to be provided a week before the workshop. Councilors agreed that one hour is probably not long enough and Mr. Olmstead suggested beginning at 5 p.m. and bringing in some sandwiches.

Attorney Kathy Beaverstein encouraged Councilors to focus on the issues raised by the public. Paper streets has become a vocal issue in the community. Councilor Mann suggested that perhaps the Town Attorney should provide his answers in writing to provide a reference in dealing with a specific check-off list. Chair Stevens offered to call Jeff Hold concerning Councilor Mann's suggestion and get his thoughts?

Councilor Soley requested that people that served on the former Paper Street Committee be invited to the workshop. Dave Whitten of Flying Point mentioned that there has been a process going on in various neighborhoods to sit down and listen to all of the tapes and read all of the minutes of the former Paper Street Committee meetings. Families have contributed money to hire an attorney that is familiar with land use law. The neighborhoods are offering attorney, Peggy McGehee, as a resource to the Town at their expense, to work with the Town Attorney, not in opposition. Discussion followed. Councilors concurred that the questions should be given to both attorneys and a workshop will take place.

Randall Thomas shared her views on the former Paper Street Committee's efforts. The Council needs to recognize that this is very important to the neighborhoods and there will be two views. The Council will need to decide which view they are going to take. Chair Stevens expects to hear from the Town Attorney on what paper streets are. Attorney Beaverstein suggested that the Council listen to the taped minutes of the former Paper Street Committee, where they spell out a process of what they are doing and what their mandate was and say that there will be public hearings and people will be given an opportunity to speak.

Adjournment

MOVED AND SECONDED: To adjourn at 11:15 p.m. (Councilors Mann & Soley)
VOICE VOTE: (5 Ayes) (2 Excused—Arsenault & Lowell)

Respectfully Submitted,



Sharon Coffin
Council Secretary

Item # 187-01

Town of Freeport MEMO

MEMO TO: Dale C. Olmstead, Jr., Town Manager
FROM: Johanna Hanselman GA Administrator
SUBJECT: General Assistance Ordinance
DATE: December 11, 2001



Below you will find the information which was requested by the Town Council regarding the Maximum Levels of Assistance.

10/1/01 - 9/30/02
Monthly Maximums

10/1/00 - 9/30/01
Monthly Maximums

Overall Maximum Levels:

1 Person Household	\$524	\$474
2 Person Household	\$602	\$540
3 Person Household	\$796	\$715
4 Person Household	\$1,036	\$933
5 Person Household	\$1,175	\$1,059
6* Person Household	\$1,250	\$1,134
*Add \$75 for each additional person		

Food Maximums:

1 Person Household	\$135	\$130
2 Person Household	\$248	\$238
3 Person Household	\$356	\$341
4 Person Household	\$452	\$434
5 Person Household	\$537	\$515
6* Person Household	\$644	\$618
*Add \$98 for each additional person		

Housing Maximums

Unheated/Heated

Unheated/Heated

0 Bedrooms	\$412/449	\$392/428
1 Bedroom	\$399/447	\$380/427
2 Bedrooms	\$534/601	\$505/570
3 Bedrooms	\$738/823	\$703/785
4 Bedrooms	\$832/934	\$790/890

Item # 188-01

Memorandum

To: Dale Olmstead
From: Town Clerk's Office *BW Curry*
Re: Shellfish Ordinance changes
Date: September 4, 2001

Attached are changes to the Shellfish Ordinance requested by the Shellfish Commission. Chris Vaniotis reviewed the changes and the Dept. of Marine Resources approved them. Please submit those changes to the Council at its next meeting.

cc: Shellfish Commission

*Adopted (as amended by Council)
See Pg 2*

*Meeting # 26-2001
Item # 188-01
Dec. 18, 2001*

AMENDMENTS TO FREEPORT SHELLFISH CONSERVATION ORDINANCE

Chapter 32

The Town of Freeport hereby ordains that the Shellfish Conservation Ordinance, as amended through ~~January 16, 2001~~, is further amended as follows:
APRIL 24

Amend Section 4(F) by adding the underscored matter, as follows:

F. Recommending conservation closures and openings with the Area Biologists of the Department of Marine Resources and recommending other long-term management goals;

Amend Section 4(H) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

H. Identifying conservation projects which qualify an applicant for ~~Renewal or New License status under subsection 6(d)(3) of a Commercial License~~. The Shellfish Program Coordinator shall record the names and hours worked by individuals on a conservation project and submit them to the Shellfish Conservation Commission.

Amend Section 6 by adding the underscored matter, as follows:

6. LICENSING:

Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this Municipality without having a current license issued by this Municipality as provided by this Ordinance

A Commercial Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources in order to harvest shellfish commercially.

Shellfish licenses are not required in order to dig and take no more than one peck in the State Park areas where and when it is lawful to do so.

Amend Section 6(A), paragraphs (1) and (2) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

(1) Resident Commercial Shellfish License: The license is available to residents of the Town of Freeport and entitles the holder to ~~dig and take any amount of shellfish from the shores and flats of this Municipality and reciprocating municipalities engage in the activities of commercial harvesting of shellfish in accordance with the ordinance and conservation measures of this Municipality;~~

(2) Nonresident Commercial Shellfish License: The license is available to nonresidents of this Municipality and entitles the holder to ~~dig and take any amount of shellfish from the shores and flats of this Municipality engage in the activities of~~

commercial harvesting of shellfish in accordance with the ordinance and conservation measures of this Municipality;

Amend Section 6(B), paragraph (3), subparagraph (b) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

b) If after the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the licensee gave false information on the license application, the Town Clerk shall request the Police Chief or his designee to investigate those circumstances and any other circumstances related to the license application. If the results of the investigation continue to suggest that the licensee gave false information on the license application, the Town Clerk shall give the licensee a minimum of seven (7) days notice of a hearing before the Town Clerk Shellfish Conservation Commission to determine whether or not the licensee gave false information on the license application. The Police Chief shall present the evidence suggesting that false information was given. The licensee shall have the right to present evidence to show that false information was not given. If, after hearing, the Town Clerk Shellfish Conservation Commission determines that material false information was given, the Town Clerk shall revoke the license and give the licensee written Notice of Revocation. A licensee whose license is revoked shall not be entitled to any refund of license fees.

APPEAL
BOARD

APPEAL
BOARD

Amend Section 6(C), paragraph (3), subparagraph (b) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

b) If after the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the licensee gave false information on the license application, the Town Clerk shall request the Police Chief or his designee to investigate those circumstances and any other circumstances related to the license application. If the results of the investigation continue to suggest that the licensee gave false information on the license application, the Town Clerk shall give the licensee a minimum of seven (7) days notice of a hearing before the Town Clerk Shellfish Conservation Commission to determine whether or not the licensee gave false information on the license application. The Police Chief shall present the evidence suggesting that false information was given. The licensee shall have the right to present evidence to show that false information was not given. If, after hearing, the Town Clerk Shellfish Conservation Commission determines that material false information was given, the Town Clerk shall revoke the license and give the licensee written Notice of Revocation. A licensee whose license is revoked shall not be entitled to any refund of license fees.

APPEALS
BOARD

APPEALS
BOARD

Amend Section 6(D), paragraph (6) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

- (6) License Fees will be waived for residents~~individuals~~ 65 years or older for recreational licenses only.

Amend Section 6(E) by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

E. Limitation of Diggers: Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

- (1) Prior to May 15 the Freeport Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources will establish the number of commercial and recreational licenses to be issued. The Shellfish Commission may adjust the number of Recreational Licenses by up to 10% during the license year (July 1 to June 30).
- (2) The Shellfish Conservation Commission will notify the Town Clerk in writing prior to June 1 of the number of licenses to be issued. No reservation will be accepted by telephone.
- (3) The Town Clerk shall issue commercial renewal and new licenses to residents and non-resident according to the following priority: Ten percent of the renewal and new commercial licenses shall be retained for non-residents during the period of issuance.

~~The Shellfish Conservation Commission shall waive all or part of the requirement for conservation time for an applicant who provides the Commission with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled conservation time due to incapacitation by illness or injury. At the request of an applicant, made at a regular monthly meeting of the Commission, the Commission may arrange on an hour for hour basis:~~

- ~~b. Another time to complete conservation work for an applicant who demonstrates to the Commission that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time;~~
or
- ~~b. Alternate less strenuous work for an applicant who provides the Commission with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.~~

Renewal Commercial License: An application for a renewal commercial license must be made at the Town Clerk's office during a regular business day during the month of April and must be accompanied by payment of 50% of the required license fee. The remainder of the fee must be paid no later than the last business day in May. Renewal licenses will then be issued at the Town Clerk's office during regular business days in June. Such licenses shall be valid from July 1 through June 30. To be eligible to purchase a renewal license, a person must have been licensed for the previous year and must have completed eight (8) hours of conservation work as determined by the Shellfish Conservation Commission. In the event that the number of qualifying applications exceeds the number of available licenses, licenses shall be awarded pursuant to the procedure set forth in Section 6(I) of this Ordinance.

Of the eight (8) hours of conservation work one must complete for license renewal, at least four (4) hours of the conservation time must be used to do clam flat survey. If a survey is not needed in a particular year, license holders must still complete eight (8) hours of conservation time as determined by the Shellfish Commission. No person may perform conservation work as a surrogate for the applicant. ~~The Shellfish Commission shall waive all or part of the requirement for conservation time for an applicant who provides the commission with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled conservation time due to incapacitation by illness or injury.~~ The Shellfish Commission may substitute other types of conservation work for the clam-survey work for those commercial harvesters age 60 and over. Any commercial harvester who removes clams from the flats for personal use or sale while engaged in conservation work will not receive credit for that conservation work.

The Shellfish Conservation Commission shall waive all or part of the requirement for conservation time for an applicant who provides the Commission with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled conservation time due to incapacitation by illness or injury. At the request of an applicant, made at a regular monthly meeting of the Commission, the Commission may arrange on an hour-for-hour basis.

-
- a. Another time to complete conservation work for an applicant who demonstrates to the Commission that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time;
or
 - b. Alternate less strenuous work for an applicant who provides the Commission with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.

~~New Commercial License: New Commercial licenses procedures are set forth in Section 6(I) of this Ordinance.~~

Amend Section 7 by deleting the matter shown in strikeover type and adding the underscored matter, as follows:

7. **OPENING AND CLOSING OF FLATS:** ~~The Municipal Officers~~ Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation ~~of the Shellfish Conservation Commission and concurrence of the~~ Department of Marine Resources Area Biologist that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, ~~the Municipal Officers~~ Shellfish Conservation Commission may call a public hearing on ten-day's notice published in a newspaper having general circulation in the Town, stating the time, place and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the ~~Municipal Officers~~ Shellfish Conservation Commission made after hearing shall be based on findings of fact.

carpentier/clw/freepor/amendstosoc082201 5005.997

**TOWN OF FREEPORT
THIRD EXTENDED MORATORIUM
ON PROCESSING APPLICATIONS FOR MAJOR SUBDIVISIONS
AND MORATORIUM ON PROCESSING APPLICATIONS
FOR MINOR SUBDIVISIONS**

WHEREAS, with the goals of preparing for and effectively managing anticipated residential growth in the Town of Freeport, the Freeport Town Council created a Residential Growth Management Committee; and

WHEREAS, the Residential Growth Management Committee was charged with identifying growth areas, making recommendations for new subdivision regulations, making recommendations for the protection of open space, and identifying areas of special significance; and

WHEREAS, the Residential Growth Management Committee has completed its work and made its recommendations to the Freeport Town Council; and

WHEREAS, the Town Council has reviewed the report of the Residential Growth Management Committee and has charged the Planning Board with the responsibility of preparing ordinance revisions and new ordinance provisions to implement the recommendations of the Growth Management Committee; and

WHEREAS, there remain many large tracts of undeveloped land in Freeport which are currently zoned to allow residential development; and

WHEREAS, the Town Council anticipates that continued residential growth in Greater Portland will put development pressure on the open land in Freeport; and

WHEREAS, until the Town completes the steps needed to implement the recommendations made by the Growth Management Committee, the application of the Town's

ADOPTED 12/18/2001 – includes minor subdivisions

existing Comprehensive Plan and land use ordinances is inadequate to prevent serious public harm from rapid, uncontrolled residential development; and

WHEREAS, "major subdivisions," defined in the Town of Freeport Subdivision Ordinance as "any subdivision containing more than five (5) lots, or any subdivision requiring any new public street, extension, or the extension of municipal facilities," create the greatest potential for serious adverse impact if they are developed before the Town has had the opportunity to revise, update and strengthen its land use ordinances; and

WHEREAS, the Planning Board believes that the purpose of the moratorium could be best served by including tracts of land which are likely to be further divided into major subdivisions in the future: and

WHEREAS, planned retirement communities providing care and services to elderly households do not pose the same potential problems as other types of subdivisions; and

WHEREAS, the Town Council finds that the problems giving rise to the need for a moratorium continue to exist; and

WHEREAS, the Planning Board has communicated to the Town Council that it needs additional time to prepare the ordinance revisions and new ordinance provisions needed to implement the recommendations of the Growth Management Committee; and

WHEREAS, the Town Council finds that the Planning Board is working diligently and is making reasonable progress to alleviate the problems giving rise to the need for the moratorium;

NOW, THEREFORE, the Town of Freeport hereby ordains as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency

ADOPTED 12/18/2001 – includes minor subdivisions

of the Town of Freeport shall accept, process, approve, deny, or in any other way act upon any application for a subdivision, as defined by 30-A M.R.S.A. § 4401(4).

2. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application for a “major subdivision,” as defined in Section 25-301(20) of the Freeport Subdivision Ordinance, which had not become a “pending proceeding” as defined in 1 M.R.S.A. § 302 prior to July 14, 2000 and to any application for a “minor subdivision,” as defined in Section 25-301(21) of the Freeport Subdivision Ordinance, which had not become a “pending proceeding” as defined in 1 M.R.S.A. § 302 prior to December 18, 2001.
3. Effective date and duration. This Ordinance takes effect immediately upon enactment by the Freeport Town Council and shall remain in effect through April 15, 2002, unless extended, amended or repealed by the Freeport Town Council.
4. Exception for retirement communities. This Ordinance shall not apply to any subdivision which is a retirement community. For purposes of this Ordinance, “retirement community” means a planned community which provides housing for elderly persons in a variety of housing types, which provides a variety of levels of care and a range of services to elderly persons, and which is designed to provide a sense of unified development with a common design character. For purposes of this Ordinance, “elderly person” means a person age 55 or older.
5. Exception for certain minor subdivisions. This Ordinance shall not apply to a proposed minor subdivision if (1) the size of the tract or parcel proposed to be divided precludes its division into more than 5 lots or dwelling units under the net

ADOPTED 12/18/2001 – includes minor subdivisions

residential density requirements of the Town of Freeport Subdivision Ordinance and (2) the tract or parcel proposed to be divided has not been divided from a larger tract or parcel since July 18, 2000. For the purposes of this exception, the term "tract or parcel" includes all contiguous land under common ownership or control.

6. Extension of Moratorium Ordinance. This Ordinance amends and extends the Town of Freeport Second Extended Moratorium on Processing Applications for Major Subdivisions, which would otherwise expire on January 10, 2002.

TOWN OF FREEPORT

*Background Material
for Item #189-01*

Municipal Offices
(207) 865-4743
FAX (207) 865-0929



December 6, 2001

TO: Dale Olmstead, Town Manager
FROM: Donna Larson, Town Planner *DL*
RE: Planning Board recommendation regarding an extension of the current moratorium

On December 5, 2001, the Planning Board discussed extending the current moratorium on major subdivision and extending the moratorium to minor subdivisions. The Board unanimously agreed that the moratorium should be extended and that it should include minor subdivisions. The reasons for extending the moratorium and including minor subdivisions include:

- The Board is nearing completion of ordinance language that will be recommended to the Town Council; however, the review isn't complete,
- The Town Council will require an amount of time to review the recommendation,
- With regard to adding minor subdivisions, the Board concluded that developments reviewed under two different standards wouldn't serve well the town, the developer, the nearby residents, or the homeowners in the new development,
- Reviewing minor subdivision applications with one set of rules, while trying to anticipate the future rules for a major subdivision is frustrating for the applicant, the developer, and the nearby residents,
- The Planning Board expects that the Town Council can complete its review in less time than the 180 days of the moratorium.

Today I posted the Planning Board's recommendation on the bulletin board in the Town Office's entrance and on the town's website. I asked Board members to come to the December 18, 2001, Town Council and we will be calling them on Monday to remind them. Some members did indicate they would be able to go to the meeting.

TOWN OF FREEPORT

Municipal Offices
(207) 865-4743
FAX (207) 865-0929



November 27, 2001

TO: Dale Olmstead, Town Manager
FROM: Donna Larson, Town Planner
RE: Extension of moratorium on processing subdivision applications

The current moratorium on the above referenced applications will expire on January 9, 2002. Throughout the proposed Subdivision Ordinance review process, the Planning Board has discussed the need to extend the moratorium if the time is needed; however, a formal motion won't be made until the Board meets on December 5th. Given past discussions in favor of extending the moratorium, I am confident that the Board will recommend an additional 180 day extension. Given that I'm requesting that the Town Council set a date of December 18, 2001 for the public hearing to discuss this item at their December 4, 2001 meeting.

Currently the moratorium applies to major subdivision applications only (more than 5 lots). On December 5, 2001, the Board will be discussing an extension on both major and minor subdivisions. The reason for the change is that one developer has submitted an application that the Board is nearing approval of, a second and possibly more applications most likely will be submitted in the near future. If minor subdivisions aren't included, these developments will have been reviewed under substantially different standards. To compensate for the unfortunate timing of the Council meeting being the day before the Planning Board meeting, the Planning Board's recommendation will be posted for the public on Thursday, December 6, 2001.

The Planning Board has been holding monthly workshops to review the proposed ordinance since August of this year. Prior to that, Rod Regier, Tom Rumpf, and Dave Marstaller worked as an adhoc committee to refine the proposed Ordinance that the Planning Board is currently reviewing. In reviewing the Ordinance, the Board has considered each and every line. While their work is nearing completion, it isn't complete. I anticipate that the Board will hold a public hearing to discuss changes to the Comprehensive Plan and the new Ordinance in mid-January. At that time, I expect a recommendation will be made to the Town Council.

Bernstein, Shur, Sawyer & Nelson, P.A.

Counselors at Law

100 Middle Street, West Tower, P.O. Box 9729, Portland, Maine 04104-5029
207-774-1200 Fax 207-774-1127
Internet: mainelaw.com

Christopher L. Vaniotis
E-mail: cvanlotis@mainelaw.com

November 28, 2001

VIA E-MAIL and U.S. MAIL

Donna Larson, Town Planner
Town of Freeport
30 Main Street
Freeport, Maine 04032-1209

Re: Moratorium Extensions

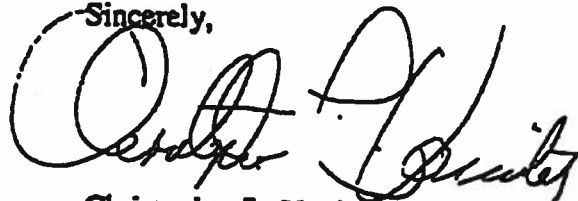
Dear Donna:

Enclosed please find two alternatives for an extension of the moratorium. One simply extends the existing moratorium for an additional 180 days after the scheduled January 10th expiration. The second extends the existing moratorium and imposes what is in essence a new moratorium on minor subdivisions as well. It would last until June 15, 2002 - 180 days from the effective date of the moratorium on minor subdivisions.

I have adjusted the explanatory material in the preamble just slightly to reflect current circumstances. In the ordinance covering minor subdivisions, I have added a whole new "whereas" clause, which appears as the second full paragraph on the second page.

If you have any questions at all or think any changes are necessary to these drafts, feel free to contact me.

Sincerely,



Christopher L. Vaniotis

CLV/lc

Enclosures

carpenter/clv/freeport/larsonltr112801 5005.197

**TOWN OF FREEPORT
THIRD EXTENDED MORATORIUM
ON PROCESSING APPLICATIONS FOR MAJOR SUBDIVISIONS**

WHEREAS, with the goals of preparing for and effectively managing anticipated residential growth in the Town of Freeport, the Freeport Town Council created a Residential Growth Management Committee; and

WHEREAS, the Residential Growth Management Committee was charged with identifying growth areas, making recommendations for new subdivision regulations, making recommendations for the protection of open space, and identifying areas of special significance; and

WHEREAS, the Residential Growth Management Committee has completed its work and made its recommendations to the Freeport Town Council; and

WHEREAS, the Town Council has reviewed the report of the Residential Growth Management Committee and has charged the Planning Board with the responsibility of preparing ordinance revisions and new ordinance provisions to implement the recommendations of the Growth Management Committee; and

WHEREAS, there remain many large tracts of undeveloped land in Freeport which are currently zoned to allow residential development; and

WHEREAS, the Town Council anticipates that continued residential growth in Greater Portland will put development pressure on the open land in Freeport; and

WHEREAS, until the Town completes the steps needed to implement the recommendations made by the Growth Management Committee, the application of the Town's existing Comprehensive Plan and land use ordinances is inadequate to prevent serious public harm from rapid, uncontrolled residential development; and

WHEREAS, "major subdivisions," defined in the Town of Freeport Subdivision Ordinance as "any subdivision containing more than five (5) lots, or any subdivision requiring any new public street, extension, or the extension of municipal facilities," create the greatest potential for serious adverse impact if they are developed before the Town has had the opportunity to revise, update and strengthen its land use ordinances; and

WHEREAS, planned retirement communities providing care and services to elderly households do not pose the same potential problems as other types of major subdivisions; and

WHEREAS, the Town Council finds that the problems giving rise to the need for a moratorium continue to exist; and

WHEREAS, the Planning Board has communicated to the Town Council that it needs additional time to prepare the ordinance revisions and new ordinance provisions needed to implement the recommendations of the Growth Management Committee; and

WHEREAS, the Town Council finds that the Planning Board is working diligently and is making reasonable progress to alleviate the problems giving rise to the need for the moratorium;

NOW, THEREFORE, the Town of Freeport hereby ordains as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency of the Town of Freeport shall accept, process, approve, deny, or in any other way act upon any application for a "major subdivision," as defined in Section 25-301(20) of the Freeport Subdivision Ordinance.
2. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application for a major subdivision which had not

become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to July 14, 2000.

3. Effective date and duration. This Ordinance takes effect immediately upon enactment by the Freeport Town Council and shall remain in effect through July 8, 2002, unless extended, amended or repealed by the Freeport Town Council.
4. Exception for retirement communities. This Ordinance shall not apply to any subdivision which is a retirement community. For purposes of this Ordinance, "retirement community" means a planned community which provides housing for elderly persons in a variety of housing types, which provides a variety of levels of care and a range of services to elderly persons, and which is designed to provide a sense of unified development with a common design character. For purposes of this Ordinance, "elderly person" means a person age 55 or older.
5. Extension of Moratorium Ordinance. This Ordinance extends the Town of Freeport Second Extended Moratorium on Processing Applications for Major Subdivisions, which would otherwise expire on January 10, 2002, for an additional 180 days.

**TOWN OF FREEPORT
THIRD EXTENDED MORATORIUM
ON PROCESSING APPLICATIONS FOR MAJOR SUBDIVISIONS
AND MORATORIUM ON PROCESSING APPLICATIONS
FOR MINOR SUBDIVISIONS**

WHEREAS, with the goals of preparing for and effectively managing anticipated residential growth in the Town of Freeport, the Freeport Town Council created a Residential Growth Management Committee; and

WHEREAS, the Residential Growth Management Committee was charged with identifying growth areas, making recommendations for new subdivision regulations, making recommendations for the protection of open space, and identifying areas of special significance; and

WHEREAS, the Residential Growth Management Committee has completed its work and made its recommendations to the Freeport Town Council; and

WHEREAS, the Town Council has reviewed the report of the Residential Growth Management Committee and has charged the Planning Board with the responsibility of preparing ordinance revisions and new ordinance provisions to implement the recommendations of the Growth Management Committee; and

WHEREAS, there remain many large tracts of undeveloped land in Freeport which are currently zoned to allow residential development; and

WHEREAS, the Town Council anticipates that continued residential growth in Greater Portland will put development pressure on the open land in Freeport; and

WHEREAS, until the Town completes the steps needed to implement the recommendations made by the Growth Management Committee, the application of the Town's

existing Comprehensive Plan and land use ordinances is inadequate to prevent serious public harm from rapid, uncontrolled residential development; and

WHEREAS, "major subdivisions," defined in the Town of Freeport Subdivision Ordinance as "any subdivision containing more than five (5) lots, or any subdivision requiring any new public street, extension, or the extension of municipal facilities," create the greatest potential for serious adverse impact if they are developed before the Town has had the opportunity to revise, update and strengthen its land use ordinances; and

WHEREAS, the Planning staff has received indications that property owners and developers may attempt to circumvent the purposes of the moratorium by applying for minor subdivisions on tracts of land which are likely to be further divided into major subdivisions in the future; and

WHEREAS, planned retirement communities providing care and services to elderly households do not pose the same potential problems as other types of subdivisions; and

WHEREAS, the Town Council finds that the problems giving rise to the need for a moratorium continue to exist; and

WHEREAS, the Planning Board has communicated to the Town Council that it needs additional time to prepare the ordinance revisions and new ordinance provisions needed to implement the recommendations of the Growth Management Committee; and

WHEREAS, the Town Council finds that the Planning Board is working diligently and is making reasonable progress to alleviate the problems giving rise to the need for the moratorium;

NOW, THEREFORE, the Town of Freeport hereby ordains as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency of the Town of Freeport shall accept, process, approve, deny, or in any other way act upon any application for a subdivision, as defined by 30-A M.R.S.A. § 4401(4).
2. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Ordinance applies to any application for a "major subdivision," as defined in Section 25-301(20) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to July 14, 2000 and to any application for a "minor subdivision," as defined in Section 25-301(21) of the Freeport Subdivision Ordinance, which had not become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to December 18, 2001.
3. Effective date and duration. This Ordinance takes effect immediately upon enactment by the Freeport Town Council and shall remain in effect through June 15, 2002, unless extended, amended or repealed by the Freeport Town Council.
4. Exception for retirement communities. This Ordinance shall not apply to any subdivision which is a retirement community. For purposes of this Ordinance, "retirement community" means a planned community which provides housing for elderly persons in a variety of housing types, which provides a variety of levels of care and a range of services to elderly persons, and which is designed to provide a sense of unified development with a common design character. For purposes of this Ordinance, "elderly person" means a person age 55 or older.

5. Extension of Moratorium Ordinance. This Ordinance amends and extends the Town of Freeport Second Extended Moratorium on Processing Applications for Major Subdivisions, which would otherwise expire on January 10, 2002.

carpentier/civ/Freeport/moratorium112701 5005.197