

**MINUTES  
FREEPORT TOWN COUNCIL MEETING #08-21  
HELD REMOTELY USING ZOOM TELECONFERENCING TECHNOLOGY  
TUESDAY, MARCH 16, 2021  
6:30 PM**

**ITEM #49-21** To consider action relative to an Executive Session pursuant to 1 M.R.S.A § 405(6) (E) pertaining to a consultation between the Town Council and the Town Attorney concerning a legal matter.

**MOVED AND SECONDED:** That the Town Council enter Executive Session at 6:05 p.m. (Reighley & Whitney) (**ROLL CALL VOTE**) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** That the Town Council exit Executive Session at 7:09 p.m.)

<b><u>ROLL CALL OF MEMBERS:</u></b>	<b>PRESENT</b>	<b>EXCUSED</b>	<b>ABSENT</b>
Edward Bradley, 242 Flying Point Road	<b>x</b>		
Jake Daniele, 264 Pownal Road	<b>x</b>		
John Egan, 38 Curtis Road (Chair)	<b>x</b>		
Henry Lawrence, 93 Hunter Road	<b>x</b>		
Daniel Piltch, 25 Quarry Lane	<b>x</b>		
Douglas Reighley, 2 Harbor Ridge Road	<b>x</b>		
Tawni Whitney, 56 Baldwin Road (Vice Chair)	<b>x</b>		

Following an Executive Session, Chair Egan apologized to the audience for the Executive Session running over the allotted time but the Council had a couple of things to discuss and it took more time. He called the meeting to order at 7:10 p.m. using the zoom platform. He took attendance and noted that all Councilors as well as the Town Manager are here this evening. He explained how members of the public would be able to participate at various times during the meeting.

**FIRST ORDER OF BUSINESS:** Pledge of Allegiance

Everyone stood and recited the Pledge viewing Vice Chair Whitney's flag.

**SECOND ORDER OF BUSINESS:** To waive the reading of the minutes of Meeting #06-21 held on March 2, 2021 and to accept the minutes as printed.

**MOVED AND SECONDED:** To waive the reading of the minutes of Meeting #06-21 held on March 2, 2021 and to accept the minutes as printed. (Reighley & Piltch) (**ROLL CALL VOTE**) (7 Ayes) (0 Nays)

**THIRD ORDER OF BUSINESS:** Announcements

Chair Egan announced:

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- The **Special Referendum Election** which occurred on March 9<sup>th</sup>, concerning authorizing the Town of Freeport to issue general obligation bonds to fund the local share of costs to construct bicycle and pedestrian ways as part of a Maine Department of Transportation project to replace the Desert Road and Mallett Drive bridges over Interstate 295 and to appropriate the proceeds of the bonds for said purpose was approved by the Freeport voters. 1,016 people cast ballots, 801 in favor of the project and 215 opposed.
- **The Annual Orientation for Board & Committee Members** will be held on Wednesday March 24, at 5:30 p.m. via zoom. Topics to be covered include the Freedom of Access Act, the Public Notice & Meeting Process and administrative duties of Committee Chairs and staff persons. All Board and Committee members are encouraged to attend this session. Please contact [jhanselman@freeportmaine.com](mailto:jhanselman@freeportmaine.com) if you would like to attend.
- **More help with getting your COVID-19 Vaccine is available from the Maine Department of Health and Human Services as follows:**

**Maine DHHS Offers Free Transportation** to Residents Who Need Rides to COVID-19 Vaccine Clinics. At least 48 hours before the vaccine appointment, individuals should call 1-855-608-5172 to reserve a ride

**There is also a MAINE COVID-19 COMMUNITY VACCINATION PHONE LINE** If you need help getting information about COVID-19 vaccine clinics. The Community Vaccination Line can help Maine people who:

- Do not have internet access
  - Need assistance connecting to or navigating online resources
  - Require interpretation assistance
  - Are home bound and need transportation
- Call 1-888-445-4111

**FOURTH ORDER OF BUSINESS:** Information Exchange

Councilor Reighley reported that the Complete Streets Committee met after it couldn't meet because of power outages, but they were very cheerful and celebratory for the result of the Election. Under regular business, Greg Michaud has organized a plan that all the Board members are capable of viewing and contributing on. He has a great timeline. Again, if we ever want to start a timeline for our projects, Greg is the person we need to contact. Chair Egan thanked him and noted he has heard that a couple of times. He suggested that Mr. Joseph reach out to Greg and get a copy of that project, Aging Spread Sheet so we can have something like that before Council projects.

Vice Chair Whitney wanted to give their regular update on how the Downtown Revisioning Work is going. She feels it is going phenomenal and this upcoming Saturday they will have a Downtown Walk which they are hoping everyone will participate in. If anyone would like to attend but for some reason feel they cannot walk that far, they will have options for folks. Vaughndella will be there and everything is all set. If anyone would like to participate but are worried about that, please reach out to her so she can make sure they are all set.

Mary Davis, President of FEDC advised that last week she gave a detailed briefing on how the Revisioning is going but plans to be brief tonight. On timing, everything is moving nicely according to

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plan. Their surveys and feedback continue and everyone will be pleased to know they added in the kids and had 132 high schoolers that finished the survey yesterday. They now have 557 adult surveys so they are close to 700 surveys total which is fabulous. The Town Walk is scheduled on Saturday so please sign up if you would like to be there. The intention of this walk which is from 10:30-11:30 a.m. starting at the Harraseeket Inn is for Principle to come in with more detailed questions based upon the feedback they have already gotten from the surveys. It is very important and feeds into the project for them. That is the funnel that is starting to get the information coming down. One of the questions she has heard is what is the early action plan and what can we expect? She explained that they wanted to move very quickly and their initial request of the consultant was they wanted an early action out of this that could start them implementing immediately because success begets more success. Phase One is on its way. The planning is a community-built plan.

What we will have from early actions is a summary of the feedback from all the community, the Town Walk, the two meetings and the surveys. After the Walk, Principle will be processing the 700 surveys, the two Town meetings and will prepare a draft early action plan that will come out to everyone that has an e-mail on their website the first part of April. They will give the community 2-3 weeks to give feedback on that and once the feedback is done, they are planning to present a summary of the early action plan at the May Town Council meeting. She will talk more about that when she is here in two weeks. They are actually putting these recorded sessions on their website along with other materials. If folks want to hear what is going on, they can go to [www.freeportdowntown.me](http://www.freeportdowntown.me) and get more information about what they are doing. They would like to have people planning to go on the Walk on Saturday sign up on their website because it will help them understand how many people will be there. They are trying to be very COVID-safe and make sure people are in very small pods or groups and they can get all their feedback. If people can't sign up on the website, they can e-mail Councilor Whitney or her and they will make sure they will get people in pods or groups to walk downtown.

**FIFTH ORDER OF BUSINESS:** Town Manager's Report

Mr. Joseph wanted to make the public aware of an ongoing project that he has just been made aware of that will be affecting people in Town. Maine Natural Gas is doing some expansions this summer over a three-month period from April 15 to July 15. The Town does not regulate these projects. It issues the road opening permits for them and we will in all these cases. There is nothing that is non-permittable but the actual project whether or not it happens, is up to Maine Natural Gas. The areas that will be impacted are there will be a crossing and an extension at Desert Road for the new construction happening near the intersection of Desert Road and Hunter Roads. There will be an extension on Elm Street of about 2,000 feet from 17 Elm to the end of Elm Street for a service line. It will run up Oak Avenue for about 400 feet and run up to Oak Street for 620 feet. We have asked that Maine Natural Gas reach out to those neighbors in those neighborhoods but we are trying to get the word out that it is going to be between April 15 and July 15. They can assume there will be disruption in that area, specifically traffic. Roads may be down to one lane in certain areas and things like that. We have a contact for Maine Natural Gas and that is Jeremy Hawkins. He can be reached at 729-0420, Ext. 126. He will be the project supervisor so anyone with questions or concerns should contact Maine Natural Gas. His e-mail is [Jhawkins@mainenaturalgas.com](mailto:Jhawkins@mainenaturalgas.com).

As people are aware, Town Hall moved away from appointment only, to open service with customer limits inside the building. It has been going very smoothly and he thanked everybody in the public that has been taking it seriously and we have had no issues in terms of spacing or COVID precautions. The Library has changed their schedule. The current schedule for the next few weeks or perhaps longer, Monday 10-5 p.m. and Tuesday 10-7 p.m. for in-person browsing; Wednesday, Thursday and Friday on the same schedule as previously but for curbside delivery. It will be adjusted based on demand.

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He wanted to give a congratulatory shout out to Gail Moody and Robin Doak, clerks in the Finance Department who handle vehicle registrations. Gail also has a side task as part of her job. She is our agent for the Motor Vehicle Registration process and is actually the State Agent in Freeport. It is additional responsibility. She is in charge of making sure everything evens out at the end of the day in terms of dollars and license plates, etc. On a regular basis the DMV audits Municipal Agents and they came in and Gail got a pretty rare zeroing mark audit from them. He extended congratulations to Gail for doing a fantastic job. They both do a great job on a day in day out basis but this is a little special nice thing they were able to accomplish for us.

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

Chair Egan invited members of the public to provide comments on Non-agenda items. There were no public comments provided so the Council moved on.

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

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ITEM # 50-21                      To consider action relative to adopting the March 16, 2021 Consent Agenda.

**BE IT ORDERED:** That the March 16, 2021 Consent Agenda be adopted.  
Egan & Whitney)

Chair Egan reviewed the items on the Consent Agenda for members of the public.

**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

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ITEM # 51-21                      To consider action relative to enactment of proposed Freeport Ordinance Chapter 61: Short-term Residential Rental Registration Ordinance. PUBLIC HEARING

**MOVED AND SECONDED:** To open the public hearing. (Reighley & Piltch)  
**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Chair Egan explained that the Council had a discussion about the introduction of this two weeks ago when we posted this public hearing. The available text of the Ordinance addition has been circulated and is available publicly as well as on the Town's website. He explained how to provide public comments on this item and encouraged everyone to limit their comments to a 3-minute segment.

Joyce Veilleux thanked the Ordinance Committee for the 17 months of work to draft this Ordinance. She wanted to point out some of the things this Ordinance does not do. It does not require the owner to live in the rented house. It does not even require that the owner of a Short-term Rental live in Freeport or the State of Maine. It does not limit the number of Short-term Rentals that a person or a company can own in the Town of Freeport. The only limit is a 300 Short-term Rental Unit in the Town. We currently have 55 units being advertised. Before the virus, there were approximately 150. The 300-unit limit gives plenty of room for growth. It also means that the Council at that time will have to re-evaluate the Short-term Rentals in Freeport and see if the Ordinance needs to be tightened or loosened. This Ordinance does provide minimal regulatory structure to a business that has been operating without regulations for a lot of years. It will require owners to register, give contact information and meet very minimal safety and health standards. For those renting non-posted houses, they must provide parking and meet other occupancy standards. We all agree that most renters and hosts are wonderful people but as with most human

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activities there are also bad apples. These are usually in the non-hosted houses and can be very disruptive to the neighborhood which is why we need an Ordinance and a complaint process. The definitions in this Ordinance are the industry standard definitions that have been reviewed by multiple law firms that specialize in Municipality Law. Many are also found elsewhere in Town Code and Ordinances. If something is changed here, it would have to be changed throughout and would have to be reviewed by the law firms again. At the August 2019 Council meeting, a public comment period was held. All sides were present and spoke and at the end the Chair charged the Ordinance Committee to draft an Ordinance. They have spent the last 17 months researching and drafting the language. Several neighbors affected by the non-hosted Short-term Rentals and a representative from the B & B Inns in Town attended almost every 7:30 a.m. meeting and we now ask that the Council pass this very fair and equitable Ordinance.

Sandy Macleod advised that he wrote a letter to the Town that he proceeded to read indicating his concerns with this Ordinance into the public record. His personal opinion is when towns start restricting what property owners can do with their property, and some restrictions are valid, it is important to target the rules to address the problems that have crept in overtime and not make rules that have many unintended consequences restricting all the problems for a few. His question is does anyone know how many houses there have been legitimate complaints about compared to how many Short-term Rentals there are in Freeport? He bought his property in Freeport ten years ago. He intentionally bought in a commercial zone. There was an old cape on the property that he rented out to long-term tenants and built a small workshop on the property. A couple of years ago his tenants moved out and he decided to rent the house as an Airbnb mostly to people from out of state visiting Maine generally 2-5 days and generally 2 groups a week. He feels if the option is not available, those visitors would park themselves in the many towns that have numerous options for short-term rentals and it would be a loss for Freeport. One short-term rental per week would be a financial burden and would likely cut revenue by 50% for hosts like him. It might force him and others to stop offering it and eliminate a popular housing option for visitors to Freeport. Perhaps that is the intention of the Ordinance. The average short-term rental stay in Maine is 2.7 days. The Ordinance opens with: It is the intent of the Ordinance to allow the continued reasonable short-term rental in Freeport. By limiting them to one per week is essentially redefining short-term rentals or restricting occupancy to a point that is not financially viable. He has never heard of a Town having an insurance requirement for businesses other than contractors hired by the Town. He feels this Ordinance seems ill conceived and will create a burden on property owners, property tax payers and residents that have provided desired accommodations for visitors to Freeport without causing any problems for their neighbors of the Town. He noted he sent a copy of his comments to the Town Council.

Kristi Marsh of 26 Mustang Valley appreciated the time and thought put into this. She has done her research and is a rule follower. She purchased five acres and knew that her land fell under Agro-Tourism under Section 402 in the Zoning Ordinance which allows for farm stays which is her business plan. She is half way through her venture in developing her Agro-Tourism. Short-term Rental was not the goal but it was a modern method to be able to transition to her thing. She does want a healthy community and healthy tourism but found that the definitions exist but we are being forced into an either/or and that is not how tourism works. At some times in the year she will be an accessory apartment, a single-family dwelling. Some times of the year she is a one-family dwelling based upon the definitions. She explained what she would be during certain parts of the year. Tourism is fluid. Freeport at times is at 10% occupancy and 36% just last month. Agro-Tourism is seasonal itself. She loves soil but cannot attract many visitors during mud season but it is only the months that are being restricted is when tourism is high here. She is only half way through her project. She has a concrete foundation in the ground and does not want to have to put sheep back there but she wants to follow through on her business plan. There are a few bad apples but she asked the Council to not hurt others that are trying to do good things for the community.

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Jack Reilly of 44 Maquoit Drive noted that he and his wife commend the Council and the Ordinance Committee for the collaborative and inclusive process to draft this Ordinance and the back and forth and public meeting review that has produced a very effective framework for preserving the rights of Freeport homeowners to rent their homes while introducing measures that help manage the negative impact Short-term Renters have on Freeport. Their home is next to two un-hosted STRs who's owner lives out of state. The behavior of renters and the owners of these properties have impacted the quality of life they sought in Freeport. Noise, garbage, trespassing, unattended fires and illegal parking are a regular occurrence at this property which turns over tenants up to three times per week all while the out-of-state owner enjoys her quality of life in a suburb of Boston. These rental properties are businesses, essentially multi-room hotels sitting in the midst of single-family homes on an otherwise quiet road with homeowners valuing the quiet and comfort of Flying Point. These properties regularly attract renters and front parties with each group's activities spread over most days of the week. Think of party every day. These are the bad apples they are referring to and they are associated with STRs. They are renters and a property owner who have no regard for the neighborhood or for Freeport. For them, the proposed framework addresses many of those issues without preventing Freeport residents from responsibly renting to supplement their income. They support this draft and request that the Council approve it.

Susan Murphy feels that this Ordinance is trying to solve a problem that could be solved by community policing and we do have an adequate police force here in Freeport. She has been doing this short-term rental for over a decade and lives in Freeport. She purchased her parents' house on the South Freeport waterfront that they bought over 50 years ago. She has two concerns about the Ordinance. She is concerned that the limit of 300 will not be enough for a town approaching 8,000 people. If she doesn't get one of those 300 licenses, she would probably have to sell the house. She doesn't know how the Town will decide who gets these licenses. She already has signed contracts for this summer which she feels she has to honor. Her second concern is with limiting the non-hosted rentals to one per 7-day period. She does not have people popping in and out for one night but many people come for a long weekend. They don't want to stay in the middle of the week, particularly in the fall and the winter. She needs to be able to rent each weekend and not just two weekends a month. She lives less than 3 miles from her short-term rental and can be there in less than 5 minutes. Her next-door neighbor at the rental co-manages the property with her. She asked how is that different from home hosting. This short-term rental has brought tourists and their money to Freeport. The extra income has kept that house in her family and will allow her to retire there and pass it on to her daughter. She doesn't see how shutting her down is a benefit to this town.

Tom Schwam of 6 Talbot Way echoed everything Susan just said. He emphasized the one-week issue and as they read that it means that if you rent it Friday, Saturday and Sunday, you could not rent the next Saturday and Sunday so the intention of this is to prevent people from renting two weekends in a town which to him may be an unintentional way of killing that industry for people that use it to keep their houses. Certainly, the elderly are doing this to a great extent as their kids move out. He feels the distinction of hosted or un-hosted shouldn't be there. As for enforcement, he feels this is a policing issue. Making the Codes Enforcement Officer into a police person or creating a new regulatory structure to enforce noise and parking is the wrong direction.

James Hendricks advised that he has been a resident of Freeport but is no longer. He is a business owner in Freeport and owns a multi-family owner in Freeport. He has been a landlord in Freeport for more than 20 years and has seen long-term renters and recently has been doing short-term rentals in Freeport. He has no problem with an Ordinance but has a problem with this Ordinance. He realizes that the Ordinance Committee has been working on it for 17 months but if it is not quite right for Freeport, it shouldn't be pushed through because you have been working on it for a long time. Freeport is a different entity from any other town in Maine. It could almost be considered two towns with the residential area of Freeport and the retail area in Freeport. His issue is that it is a broad stroke and kind of a blanket ordinance. He

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thinks things that should be considered are zoning. His rental is in sight of the Hilton Garden Inn. If you think the traffic of possibly two parties a week coming out of his Airbnb is more of an impact on his neighbors than the 150 potential cars per day coming out of the Hilton Garden Inn, then he would ask the Council to stay at his Airbnb and view the noise. He has no problem with the more stringent rules in some of the RR Zones, especially in the neighborhoods that have issues but restricting non-hosted stays in town to a week, you will potentially shut down Airbnbs in town. He has been doing this for five years and nobody stays for a week. The maximum is three days, a weekend, a few days. He usually has two stays a week. He employs a tenant manager that handles the trash and noise. If there is an issue, he calls him even though he lives 20 minutes away. He is in town six days a week for some reason or not. He has never been an absentee landlord. As a landlord that has never had issues, he feels he is being persecuted for a small number of landlords that have been jerks. In thinking about enacting this for April 1<sup>st</sup>, the Council should remember that people have already been booking stays for the summer and they get penalized for change stays or cancellations. He doesn't feel they are being given enough time. As for enforcement, he is sure Nick doesn't want to enforce this. It will be neighbor on neighbor and he would stress in the complaint process that names and faces should be put in the complaint. If someone is going to complain about their neighbor, it should not be anonymous because sometime if someone has a grudge, they will make a complaint. He feels pretty strongly about this and appreciates the Council taking the time on this.

Abernall Percy explained that she was born and raised in Maine but has been a resident of Freeport for five years. They have owned their home on Redding Lane since May of 2016. When they bought their home, they planned to finish a space above the carriage house to make a studio apartment for family and friends and also to rent as an Airbnb for additional income. They finished that space two years ago and have hosted more than 85 stays with approximately 170 guests. By this Ordinance, they would be defined as a home stay location. Their studio apartment has put tens of thousands of dollars into the Freeport economy over the past few years. They paid different contractors to complete the renovation and their guests dined in local restaurants and patronize local stores and businesses. As hosts, they pay people to clean between guests and purchase welcome goodies for their guests from a local business. They have never had any complaints about their guests. One of their neighbors is interested in setting up something of their own on their property. They only host one or two people at a time which keeps activity levels low and they have a large driveway with designated guest parking. This restrictive ordinance being proposed is a significant deterrent to Airbnb hosts in Freeport like them. She did not see anything in the draft document stating what the registration cost would be. She feels it is concerning because it could potentially impact their income. While they are usually home, they do enjoy going away for a weekend. The 60-minute response time would mean that they would have to host less because they wouldn't always be able to be back home within an hour. She is sorry to hear about other frustrations but she doesn't believe targeting short-term rentals as the problem rather than addressing undesirable behaviors is the best remedy.

Wendy Whitacre noted she sent a letter and is opposed to this Ordinance as it is proposed right now. The seven days hosted/non-hosted is a concern. Everybody stays 3-5 days. There are only 10 weeks in summer and this Ordinance is really cutting what they can make. She does a short-term rental in the summer to pay for her taxes. It appears all the trouble is out on Flying Point and has anyone considered maybe restricting the short-term rental license to people who live in Freeport? That would be one way to solve it instead of punishing them all. She is disappointed that this seems like a done deal. She doesn't think the Ordinance proposed is right. She too is concerned about the registration costs and how to decide on who gets a license. She already has bookings for this summer and she has two bookings within 7 days. She has never had a problem and feels this hurts them.

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Kelleigh Dulany thanked the Ordinance Committee for all the work they did. She was an active contributor to these meetings and appreciated being heard and able to participate in the conversations. She is a Bed & Breakfast owner that was discussed earlier. She is a member of the community and relies on the tourism industry to put a roof over her head and feed her family. Short-term Rentals have a contribution to make to the community. They contribute a positive experience for people coming to Freeport and potentially have them keep coming back so she applauds that. It is well documented that Short-term Rental as a cottage industry left unchecked can have terrifically negative effects on our housing market, it can affect quality of life and has a direct impact on public safety. She feels this Ordinance strives to create an important balance between residential and commercial properties. It does not punish a responsible host. She feels this is an important step especially in light of the vision and strategic planning for the town that we look at short-term rentals and we take a real critical look at how they affect the community; they affect the charm we have as Freeport, the integrity and how they can impact safety for all. She feels that a 3<sup>rd</sup> party oversight of short-term rentals will ensure some consistency and equity and it doesn't have to be a contentious environment. It can be a smart execution of a town plan. She thanked the Council for allowing her to comment and vowed to participate as needed and requested.

Marc Zimman thanked the Council for taking the time. He sent a letter and hopes that the Council received it. This is the third time he has been appearing before the Council in six years to talk about this issue. He explained that these short-term rentals are operating now because of a loophole that we had. The contemplated use of renting out a home on a recurring basis to people that will come in for only a few nights at a time was never really contemplated when we wrote land use ordinances or zoning. Now is the time to be thoughtful about this. At the last meeting we had an open forum and the invitation was made that the Ordinance Committee was going to be discussing this and people showed up and tried to contribute to a really good ordinance. Over the course of 17 months, something has been drafted that has been vetted by lawyers including a former Councilor who is a law degree holder including the Town Council's lawyer herself. This has gone through a series of iterations and we are letting the perfect be the enemy of the good. We need to get something adopted sooner rather than later because we have a real problem in Freeport that he, Jack and several others have experienced. It is not just at Flying Point or along the coast. It happens in town. He appreciates the gentleman who is near the Hilton Garden Inn and at the end of the day, he is operating an inn or bed and breakfast right next to the Hilton Garden Inn without the same licensing requirements, safety requirements and noise requirements they would have if they were there. He feels it is incumbent upon us to have a level playing field and that is what this ordinance does. The careful reading of the ordinance as it is drafted will allow people to rent their home, unit or dwelling, whatever the definition is every seven days. The notion that you are only able to rent it twice a month is a fallacy and is not how the ordinance is drafted. He feels we need to close this loophole and not table it again. This cannot be a police issue. The police have been called before and they say, look at the end of the day, we don't have an ordinance where these people are breaking the law and they can cite people making noise but they go away one day later and the next group comes in and they make noise again. We have to find a way to hold the owner of the property responsible and that is not what the current ordinance allows for. It is not just the noise. It is the parking, the trash and the general nuisance that is being created because there are no rules for this loophole. He hopes the Council will move swiftly to adopt something and not just kick the can down the road.

Leanne Nichols noted this has been a very thoughtful process and she appreciates all the time that has been put into this. She agrees with a lot of the comment that a lot of folks have made tonight on both sides of this issue. It has caused people to get really excited. The biggest thing she wants to impress upon in this conversation right now is that there are several people that are not here she knows are in a similar boat and are owners of the property. It is a significant financial reality for them in how they manage their lives just as the B&B owners. No one is trying to down any B&B owners. She appreciates what they



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contribute to our town. We have to be careful because these people have commitments to these properties and to have something like this go into effect so quickly. She knows some people are not comfortable speaking in public in these sorts of venues and she is concerned about some of them. Some of them are long-termers in Freeport and are trying to hold on to their properties. They contribute significantly to our tax base. She urged caution on this and requested that the Council slow down and dig through some of these pieces that people are raising.

Tim Whitacre advised that we have had a rental property for 13 years and they live in the neighborhood. They are 400 feet away from the property and he doesn't understand if they will be considered part of the property as living with it or not. They have never had any issues with any of their neighbors during that time and one of his biggest concerns is that they are trying to put it into effect this summer when they already have people lined up for the rentals this summer. He believes the ordinance can be reworked with the days and maybe clarify the number of days per week rather than seven days and work it another way.

Nathan C. wanted to speak in support of the ordinance or at least the idea that there needs to be something done for basically the trend we are seeing where out of state people are buying homes or investment firms are buying them which is perfectly fine but it is not the community he wants to live in or be a part of. He likes to have neighbors where he can talk to them and they actually live here as opposed to just people coming in and out. He understands people's concerns so maybe the Council can tweak a few things so perhaps if people live in Freeport and are hosting it, maybe they don't have stringent rules applied to them. As it is right now, there is just no enforcement for bad actors and there needs to be something done. This is why he is supporting it.

Susan Murphy advised that she heard some reasonable suggestions about maybe for people that live in Freeport or live in a close distance to their property, allow them to be considered home hosted. She understands the need for there to be some regulation on the short-term rentals. She has heard what went on at Lower Flying Point and sympathizes with the residents there so maybe the solution is what Wendy suggested that if you live close by and within a certain distance and can respond quickly and you are a local Freeport person, that is the solution. If you are local, you could be considered home hosted. You don't have to live exactly on the property. If you live in a contiguous property, you could be considered home hosted. Something reasonable like that could be worked out.

Greg Link advised that he has lived in Freeport for ten years. His property is contiguous to two rental properties that have been here since the 50s. He currently has bookings not only for this summer but also next summer because he has renters that come back year after year. Clearly, they are contributing to the Freeport economy. He lives five seconds away from each of those cottages and can respond if there is an issue. He will be the first one affected so he would endorse thought be given to people that have been doing this for years and live on site or adjacent to them be regarded as home hosts. As the ordinance is written, it is very broad brushed and needs to be considered for all the applications. We also need to realize that Airbnbs have become huge all over the world and will be continuing to grow and will grow elsewhere in Maine and we have people that come to Maine and stay in an Airbnb whether we like it or not. If they are not staying in Freeport, they will stay somewhere else. He urged the Council to be very careful about enacting an ordinance, especially one that will affect and create contractual conflict based on agreements that are already in place.

Nathan C. noted that in the original version of the ordinance, there was a section that if you live within 40 or 30 miles of Freeport, you also would not be subject to all of the new rules which might also be a good way of addressing people's concerns which he has heard. If you live in Maine around Freeport and there are issues, you take care of it so there are no issues so they don't need to be dealt with. He gets that but feels there may be some balance to find where everybody is happy and adding that language to it would

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push it over the finish line or taking out the 7-day minimum would help then he thinks there are certainly ways to come together to create consensus on certain sticking points which seems reasonable.

Tom Schwam asked how accurate is that 150 number of short-term rentals that was mentioned earlier? His sense is that there are many more and he is not sure how the Council could count how many are out there. Chair Egan noted that they would get to the bottom of that.

Sandy Macleod mentioned his concern is that enforcement will be a problem for the town and will really be an issue for the Code Enforcement Officer. He lives in Portland but is at his property 4 or 5 times a week. He does not live out of state and it is complicated.

Joyce Veilleux advised that there are 55 short-term rentals currently being advertised on AirDNA on different platforms. The 150 was prior to the virus and again it was from AirDNA.

Chair Egan noted that the Council has gone almost an hour to make sure anybody on the attendee list that hasn't spoken yet that wants to address the Council, this is the time to raise their hand.

**MOVED AND SECONDED:** To close the public hearing. (Reighley & Whitney) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Chair Egan thanked everyone for participating. He advised that there were a number of specific elements brought forward by the presenters or participants in the public hearing. Without getting an exact headcount, it was relatively balanced in favor of moving the ordinance forward and those wishing for either no ordinance or for this to be reworked. There was considerable discussion on hosted versus non-hosted. There were a number of concerns about the proposed number of stays in a 7-day or week period. There is potential ambiguity about the number of 300 for our registry as a limit. There was conversation about enforcement of the proposed ordinance and potentially whether or not inspecting too soon given our existing tourism season. There were also considerable complaints people have had with no pathway to move forward. Calling the police on a guest one night doesn't do anything for the next guest coming the next night. We have had a number of people talk about the impact on their neighborhood of the kind of traffic that is potential for short-term rentals. The Council has heard quite a bit about specific elements of people who are in favor and maybe not so much in favor of at least this ordinance. It is interesting to have a balance like that and he knows some Councilors have questions as well. He noted the Council would have a conversation here and see where it goes for potential action.

Councilor Lawrence asked how many of these 55 owners were invited or told about this ordinance being written? He can't imagine a lot of them were because of the statements made. About the noise, what do we do if a person owns the house and their being noisy all the time? What do we do in that situation and wouldn't it carry through to the owner? If he is blasting a stereo 7 days a week, what does the Town do to him as the property owner making the noise? Wouldn't that be a way to carry through to the owner of the Airbnb? He is ultimately responsible if people are being noisy. Do we start writing tickets? He knows it is one person at a time but we could write it for the property, right? Mr. Joseph advised that the answer is yes, it can be written to the property owner. It is not specific to the person. The Noise Ordinance was changed three years ago specifically for that purpose. He doesn't think there have been any tickets written under that Ordinance for noise violations. He noted that the Town does not have any parking regulatory authority over private streets and some of the rental units are on private streets that are in question. Councilor Lawrence asked if the people on private streets have the ability to do something? Mr. Joseph advised that in some cases, but not all. Not all private roads have homeowner associations or kind of common authorities. There is not an entity that is responsible for most private roads. They could take

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private civil action against someone parking on their private property but that would be what would have to happen. Chair Egan added that the part of the context is that the activity that is going on may be considered a business activity and in many parts of the community, zoning does not allow that kind of business activity. Many of the places where these properties are occurring leasing out for whether it is weekly or daily rentals is allowed because it is a commercial activity so there is a context of the zone and whether or not the activity is allowed. Councilor Lawrence noted he does not disagree that we need something but feels this is very restrictive and understands why it is restrictive but it seems it is restrictive for 55 units in this town and he knows there were 155 units in this town. If it was that big of a problem, he is sure we would have more people here saying, hey, we need something. He thinks registration is a great idea but the home hosted stay and the non-hosted stay needs to be cleaned up. There were some other things in this ordinance that he felt was already taken care of in other ordinances. He read the things he did not know why they were there. He feels we are trying to control something that is a policing issue.

Councilor Reighley advised that this ordinance has been with the Ordinance Committee since January of 2019. Over that period of time, the committee has listened to a lot of input and requested a lot of information from different towns. Chief Jordan, who is monitoring our meeting tonight, has been a contributor for them in his relationship with Rockland. One of the principle places they got a lot of information and support on was through the City of South Portland who drafted an initial ordinance and then revised it and has a new ordinance in place. As some people have suggested, the idea of getting an ordinance in place is what they want to have. We can always do amendments going through and they have done amendments to many ordinances as they go and we need to refine and put them in the proper perspective. For example, people that interpret one rental in a non-hosted facility per week, are they focused on the fact that the week starts on Sunday. Why can't the week start on Wednesday when there is nobody there and then they can have their weekends when they are fully booked? They have had great input from the Bed & Breakfast industry in talking about they are regulated as are hotels, and they are in competition to the short-term rentals so why can't we have a level playing field and regulate short-term rentals? They have had input from the people next to the non-hosted facilities. Joyce has done a great job in moving her ideas forward but also listening to what the Ordinance Committee have put forward and she modifies. As the committee went through, they tried to hear everybody's voice and put them in together. They feel they came up with something that can work right now. For those people who have already booked reservations, it is a pre-existing condition and something they can also work around but it is a case where we need to move forward with what we are doing here. He thanked former Councilor Tracy for the great input she had in writing this ordinance, Councilor Piltch and recently joining Councilor Egan on the Ordinance Committee. They are open to further discussion on this. One of the things they haven't finalized are things like discussing the rates and the checklist. The Ordinance Committee has a meeting scheduled on March 23 at 8:30 a.m. and they try to hold their meetings to an hour and a half. If people are wishing to supply information or comment on things, he requested that it be submitted in writing. They can get their e-mail addresses and they will read through those and go through those so they can consider them and then have a logical discussion. He thanked Jimmy Hendricks for being an early participant in this many months ago.

Councilor Piltch noted he has been involved in this for a while. Part of the reason he feels we need something in place is because we don't want to change the character of the town as a whole. Looking down the coast of Maine, towns like Kennebunkport have 55% of their residents that don't live there full time. In Bar Harbor 23% or 24% of the properties in town are short-term rentals. They are now going to pass an ordinance that will restrict that to 9% as a cap but there will be process of dwindling that down. We are not there yet and we don't have those kinds of numbers or issues. With 150 STRs in town, we are closer to 5% but it is important to put something in place so we don't become those towns. When they picked the number 300, it wasn't random, it was a number large enough to ensure that anybody who has a short-term rental could continue to have a short-term rental with a significant buffer for expansion so to

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cap it in the immediate term. It is meant to say we don't want this to get out of hand and if it approaches that number which is more or less 10%, we need to revisit it as a Council and a town. Life safety is important. If you are going to have a short-term rental and you are going to visit Freeport and stay in a short-term rental, they want to have the basics in place. The Ordinance is calling for a fire extinguisher, smoke detectors, ways to exit the house. These are reasonable things. The 7-day minimum is something he wants to address. The only difference in the ordinance between hosting and non-hosting stay relates to that 7-day minimum stay requirement. When he looks at the reasons for having an ordinance, they relate to things people have mentioned such as having some way to enforce the bad apples not being renewed every year. There are things that need to be addressed. Whether you live in or near or nearby your short-term rental is not an issue. That is treating something that is not something people are calling them to treat. It does impact the economics for people that are going to be responsible and he was not in favor of it.

Somebody asked about the ratio of complaints to the total number of short-term rentals we have in Freeport. They don't have an answer to that because they don't have a way to track complaints. That is why we are asking them to fill out a form and register so we will know if people complain, we will have a property to attach the complaint to. If it starts to fill up, we will know we have 3 or 10 bad apples in town. As for insurance, if someone rents an Airbnb you are likely already covered through their insurance, he is not 100% sure but is pretty sure. If not, he has heard there is a rider that can be added to a home insurance policy. As for people who are worried they won't be able to get a license, he feels the 300 number should cover everybody. Once you have a license, your renewal will take priority over any new licenses coming to town. When you renew your registration, you will not be denied based on the cap. The town does not make money on fees. It is not something we do to raise revenue. It is to cover costs so if we have additional costs in monitoring and registering properties, the registration fee is meant to cover that cost. Living in or near Freeport, he hopes this goes away but they did look at that and it got complicated so they went with traditional definitions of hosted or non-hosted but again if the 7-day stay goes away he hopes this will as well. He mentioned the meeting scheduled on the 23<sup>rd</sup>. He is happy to refine and tweak but would love to get something in place.

Councilor Whitney advised that she feels we are not that far apart. We can come together to a very good point pretty quickly. She agrees that there has been so much time put into this. She feels there is some tweaking that needs to happen and everyone she has talked to has been very reasonable. There are some important details that need to be ironed out before we can vote on it. With this great committee, she feels it can be done quickly and we can come to a great resolve. She feels we are all in agreement that there needs to be an ordinance and with some tweaks we can make it perfect. It has a great chance.

Councilor Daniele asked if the Codes Officer has the resources and the time to take this on? Councilor Reighley advised that they consulted with Nick on this and yes, he can. The Town Planner was a contributor in this and then they got down to the point of giving it to the Town Attorney and let her go through it. It was one of their last steps before coming here. Councilor Daniele suggested having it become effective in 2022 but vote on it tonight and give us all more time to talk about it. Everybody knows it is coming and they can go to the Ordinance meeting between now and then. We can make a couple of tweaks to get it right in line and he is sure Councilors will feel it is beneficial.

Councilor Bradley advised that he has had more calls on this than any he has dealt with since his short time on the Council. A lot of this "bad apple" occurs in his district and he takes it really seriously. As Tawni said, the guts of it are here. The framework, the skeleton is in place. There are just tweaks that need to be done to address some of the issues. We may not all agree on what the issues are but from the tone of things and conversation tonight, he will bet that 90% of it is agreed and 10% you can vote on. He would like to see the Council not put it off for a year. Jake he gets it, it is a very rational and reasonable

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suggestion but there are people in District 2 who are dealing with this every day all summer long or at least every week all summer long and it ruins their quality of life so he would like to see us if we can, take up on Councilor Reighley's suggestion. He asked Vice Chair Whitney how she makes her motion? Vice Chair Whitney advised that she did not need to make a formal motion if we are all in agreement and maybe we need to hear from Chief Jordan first to satisfy the Council.

Councilor Bradley would like to not vote on this tonight. He has a number of drafting suggestions he thinks would make it easier to interpret and enforce from a legal point of view. He knows there have been some substantive comments made but he thinks if Councilor Reighley can hold off until his next meeting and provide that as a forum for all this stuff and we can get it all out and vote on it in time for this season. Vice Chair Whitney agreed and Chair Egan felt it was a reasonable plan going forward.

**MOVED AND SECONDED:** That we table this until the Ordinance Committee refers it back to Council. (Reighley & Whitney) (no vote)

Chair Egan added with the scope that we have an Ordinance Committee meeting scheduled on March 23 and if we come to that as a group organized and focused on the issues that we have heard about and try to go through them point by point, we have a reasonably good chance of being able to come to some sort of agreement at that work session which would mean that this could come back to the Council at the April 7<sup>th</sup> meeting. One of those items might very well be the date on which we propose adoption. He is cognizant of the fact that we are potentially passing something here in April where the current language says April 1<sup>st</sup>. It may be one of the items they talk about. It feels that this is a reasonable path.

Mr. Joseph suggested that the Council table this to a future date certain of April 6<sup>th</sup> to the Council meeting. Before we do anything, if the Council continues its consideration of this, we won't re-notice it or anything like that with the understanding that the Ordinance Committee will discuss it in between in the interim. Chair Egan agreed but it presumes we come to an agreed upon conclusion at the committee and vote it forward. He feels they can start with that optimism.

**MOVED AND SECONDED:** That we table this until the April 6<sup>th</sup> Council meeting for consideration. (Reighley & Whitney) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Chair Egan asked people to present their comments in writing to the Ordinance Committee and they are welcome to attend. He hopes they can get to all of those points that morning and have this recommendation come back on April 6<sup>th</sup>.

Mr. Joseph clarified that the effective starting date was starting June 1 of 2021. It was not April. Councilor Lawrence appreciated all the work and time that has gone into this and agrees there are just a few tweaks that need to be fixed to make it a better ordinance.

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ITEM # 52-21      To consider action relative to amendments to Ordinance Chapter 4, Freeport Personnel Policy adding Section 23: Earned Paid Leave, and making various clerical amendments. PUBLIC HEARING

**MOVED AND SECONDED:** To open the public hearing. (Daniele & Piltch)  
**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

There were no public comments provided.

**MOVED AND SECONDED:** To close the public hearing. (Daniele & Piltch)

**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Mr. Joseph disclosed that this affects him marginally in a financial manner so it should be a conflict-of-interest disclaimer although he does not get a vote, he needed to say that. He provided background information on this item.

**BE IT ORDAINED:** That amendments to Chapter 4, Freeport Personnel Policy adding Section 23: Earned Paid Leave, and making various clerical amendments be enacted. (Daniele & Reighley) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

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ITEM # 53-21                      To consider action relative to the Freeport Zoning Ordinance regarding the new uses and standards for Solar Energy Generation Systems. PUBLIC HEARING

**MOVED AND SECONDED:** To open the public hearing (Piltch & Reighley)  
**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Joyce Veilleux advised that she feels 20 acres would be a better size for Freeport's large solar farms. She referred to Section 534, Paragraph C, under the standards for the small and large farms there is a section that says the Project Review Board has the ability to waive application requirements and there is a list from A through H requirements. She feels all those things are important and there should be no waivers. They should be included in every packet in the file drawer. She asked that that be deleted. Under the Performance Standards where it talks about buffering zones, she thinks we need to be more specific and not say generic trees should be put there. She thinks we should say evergreens for multiple reasons since they are green year-round and have branches close to the ground. She sent an e-mail to the Council. On the sensing issue, the Town Planner informed her that 7 feet is the standard industry fenced size and this is not stated in Paragraph 3-C safety for fencing. Right now, they could put up a 5-inch fence and would meet our ordinance requirement. She thinks we should add a statement that would limit the number of solar farms in Freeport so we don't get overrun with solar farms and feels we need to add a statement that would limit the number of farms per property. She is not up to speed on the disposal of panels at the end of their life or if there is damage to them. She understands there are some environmental issues and asked if that should also be included in our ordinance that we don't want them disposed of here and they will follow whatever the proper is at the time.

Chair Egan recalled that he forgot to put some context on this ordinance coming forward which we will get to in our discussion. This language has already been through the Planning Board over the past 12 months so the recommendation is coming from the Planning Board to the Council for adoption of the ordinance. It is not the first time for its public hearing.

Pascale Delsol advised that she understands that a number of the people on the Planning Board also think that 30 acres is perhaps too big for the Town of Freeport. She watched their meetings and feels 30 acres is too big for Freeport. She is able to watch these meetings occasionally but is uncomfortable hearing Councilors state we have had the opportunity to listen and contribute and therefore, since we haven't before, we should go ahead and do things as written. She feels we should have as many opportunities as we can to contribute. That was the second reason she raised her hand. Chair Egan agreed that he tries very hard to encourage public participation and it is less than ideal to be using this platform as opposed to having a meeting in person. When we get through the pandemic, hopefully it will improve immediately but he shares her concern that we should continually strive to have public access to our process and we keep it transparent.

There were no public comments provided.

**MOVED AND SECONDED:** To close the public hearing. (Piltch & Reighley)  
**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Town Planner, Caroline Pelletier explained that the Council made the initial request to the Planning Board in June of 2019 to look at solar farms. They were short staffed at that time so they brought in North Star Planning to help them and Sarah Del Gizzo is here tonight. They did a lot of the background research on the solar regulations in Freeport and bringing forth some of the language for the Planning Board to look at. The Planning Board talked about this over a period of six months and had input from Staff. They had significant input from the Town Attorney. They didn't get a lot of public participation during the public discussion process. For the actual public hearing before the Planning Board, they had to notify over 3,000 property owners and had about 30 people come. The Planning Board received some written documentation before. It is important that we give this careful consideration. It is on the radar for a lot of people and her understanding is that is what started in back in 2019 when we had residents that wanted to do some community solar farms. She not only gets calls from residents but she gets calls from solar developers who are watching very closely what we are doing. She feels this deserves some serious consideration because we could see something happen from it. Pascale did mention that the Planning Board flagged three things for the Council to give additional consideration. The Planning Board felt they talked about this continuously for over six months but their number one question is that they are recommending this with 30 acres. 30 acres is in line with what the max under the State for a 5 megawatts system would take up. Does the Council feel that 30-acre solar farms are the right thing for Freeport/There was some concern about pesticide and herbicide use. We do have some language in there so we would know as part of an application what somebody is potentially going to use it or planning to use it. We do know that a lot of these developers are environmentally conscious and they choose to have language saying they are not going to use those. This is something for the Council to consider. As Joyce mentioned, does the Council want more stringent buffer requirements?

She introduced Sarah Del Gizzo from North Star Planning who shared her screen with the Council. She advised that she has been involved throughout this process and wanted to give context from the perspective of what is going on with solar in Maine and why a lot of communities are starting to dive into this now and why there is so much interest and discussion around it. What sparked a lot of this was a new piece of legislation that was signed into law in June of 2019. LD1711 essentially did two things in the State of Maine. It increased the size cap and generation allowed for solar facilities. The State defines solar facilities based off of size in three different ways. One would be behind the meter system or accessory system which is something they talk about in the proposed language. They then talk about community solar which is 1-5 megawatts and that is encompassing the small solar farms and the large solar farms that Freeport is specifically looking at and potentially allowing in town. Third, they have a larger size which would be grid scale solar and that would be ten plus megawatts which is a lot larger than anything Freeport would see based on the proposed language. Before LD 1711 was passed, there were member limits per solar farm. You could only have so many people joining in and benefitting from the solar energy that was being generated by a solar farm. The limit went from a cap of 9 people per solar farm to 200 people per solar farm. It also increased the size. Previously only 250 to 400 panels were permitted by member limit which was a lot smaller. The increased capacity has been set at 5 megawatts for community solar which is roughly 25 to 30 acres which is where that number came from in the proposed language. Larger systems could be permitted throughout the State but it is going to be through specific partnerships such as Municipal partnerships, etc. Prior to LD 1711 being passed there was very little guidance from the State on land use and Municipal permitting. Since this bill has been passed, there has been a lot more guidance that has come out of the State. Maine Audubon has released guidance on solar siting and land use best practices. Since 2019 Maine communities have seen a significant influx of community solar applications. This has made a lot of communities do what Freeport is doing tonight. Talk about what

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standards need to be in place to make sure that we are siting these systems in the best possible locations in the communities. What do we need to look at as far as minimizing the visual impacts of these larger systems? What de-commissioning plans are required? All of these systems have a life span. What is it going to look like when the life span is over and these systems need to come down?

Most of these are large solar farms that we are looking at that are fixed, ground mounted, or raised. She showed photos. There will be a connection to the utility grid. The sites will include an access road driving up to the panels from the roadway and then perimeter fencing for the larger scale systems. She showed photos of the different types of mounting and wrapping systems there can be for the panels. Generally, the panels are set on concrete blocks and that is the only impervious surface that will be involved in the system. Grass will be left underneath the panels so it is important to note that the whole thing is not going to be set on one large concrete block between the footings. She showed photos of solar farms in various sizes.

There is a competitive bid process with the PUC so when this was approved in June of 2019 a lot of communities saw a mad rush of applications that came in shortly after that legislation passed. The reason for that was because there was a competitive bid process to get permits from the State. That was something restricting the amount of these systems permitted across the State in 2019. There will be other state permits required and she outlined them as well as the local standards that communities are drafting just like Freeport is looking at tonight. All of those things will be taken into account when a developer is looking at the total feasibility of the project.

Ms. Pelletier displayed a PowerPoint presentation for the Council. She displayed an accessory solar use that could be defined as solar panels that are on our Community Library Building. Our current Zoning Ordinance has a few references to solar but no specific standards for solar energy generation systems or farms of any size. Our Assessor has been doing some work on solar and going through old permits and pulling together some data. Based upon some electrical permits and some building permits, we can find 40 to 50 properties in Freeport that already have some sort of solar with the exception of our one solar farm, Maine Idyll, under old regulations it would be accessory solar and would be allowed to continue today but under more clear standards. Most of what we see in Freeport is roof-mounted. Maine Beer is our most famous ground mounted panels that follow the sunlight. The Planning Board looked at it due to the request of the Council so we will have some minor clean-up to our definitions. We had some references to solar and siting buildings that were really not best practice anymore. The biggest change here are new definitions. Primarily the new definition for solar generation system, the system itself, the solar array development area, the area of the panels, around the panels, in between the panels and the kind of uses. Solar energy generation system accessory would be allowed everywhere with the exception maybe for Design Review but that is only meant to cover someone who wants to have solar on site to feed their existing house or business. Solar Farm Small would be a solar farm that is up to 2 acres in area and Solar Farm Large would be up to 30 acres in area. Those go along with the megawatt systems under the State and that megawatt max for community solar farm. The biggest thing people are talking about is how much land are we talking about? She showed an example of a solar array with 3,000 panels. She showed a community solar farm located at the Maine Idyll. A small solar farm could be roof mounted if you had somebody wanted to allow this on their roof but not serve the use on site. It would still be considered a solar farm, not accessory. It would deliver energy to the grid or for offsite consumption. On the ground it would have an area of 2 acres or less. She had a map and showed where 3-phase power exists in Freeport and where solar farms would be permitted. We do have some large parcels but parcels can always change. We have a new section of the Zoning Ordinance, Section 534 which would have standards for these solar energy generation systems. All solar uses whether it be accessory or solar farm would require building permits. The Planning Board did not make these exempt to Design Review and any of the design standards in the Freeport Village Overlay District. It would clarify when accessory uses are allowed.



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All solar farms will be subject to Site Plan Review by the Project Review Board and all applications would need a decommissioning plan for the removal of the equipment at the end of its life and also how they are going to restabilize that site. Applicants would also need to submit proof of financial capacity to show us that they can build, maintain and afford to remove it at the end of life. For large solar farms there will be additional requirements, the biggest thing would be sign off from outside agencies, Maine Historic Preservation Commission, Maine Natural Areas that will look at natural and botanical features on the site, IF&W will look at habitat. Some of these will trigger various levels of permitting from the Maine DEP. There will be new performance standards for all solar farms. There will be some height limits. There are structures that need to meet the setbacks. There are some additional setbacks put into place when they are in a commercial district but abutting a residential district and there was some language to update some landscaping in our commercial districts which is really Route One South. She would be happy to go into buffering, financing, insurance and performance guarantees for the removal of the large solar farms when they do reach the end of life if the Council has questions but this is a snapshot on the language. There was one letter received after the Planning Board meeting that is in the Council's packet and was having trouble with Zoom.

Chair Egan mentioned that during the public hearing, there was a question about defining the height of the fence that is required around these systems. How hard is it to make that amendment without having to come back for another adoption? Ms. Pelletier advised that Sarah confirmed that a 7-foot-high fence is the industry standard for the Large farms and it is totally appropriate. That is a change they can make. Another thing Joyce raised is having one farm per property and that has always been the intent of the ordinance. The Town Attorney did look at that. If this is something the Council wants to look at, it could be added to the language.

**BE IT ORDAINED:** That proposed amendments to the Freeport Zoning Ordinance regarding new uses and standards for Solar Energy Generation Systems be adopted, to include the language written in tonight's materials.  
(Piltch & Reighley)

1. Addition and amendment of definitions within Section 104 including, but not limited to: "Solar Energy Generation System, Accessory"; "Solar Farm, Small"; and "Solar Farm, Large".
2. Addition of the use of "Solar Farm, Small" as a permitted use (subject to Site Plan Review) in **the following zoning district sections:**
  - Section 402. Rural Residential District I and Rural Residential District IA;
  - Section 403. Rural Residential District II;
  - Section 405. Medium Density Residential District II;
  - Section 411. Commercial District III;
  - Section 420. Local Business District;
  - Section 421. Industrial District I; and,
  - Section 425. Resource Protection II.
3. Addition of the use of "Solar Farm, Small" and "Solar Farm, Large" as permitted uses (subject to Site Plan Review) in the following zoning district sections:
  - Section 406. Medium Density Districts;
  - Section 409. Commercial District I;
  - Section 412. Commercial District IV; and,
  - Section 422. Industrial District II.
4. Addition of new Section 534: Solar Energy Generation Systems.
5. Associated amendments to Section 602: Site Plan Review.

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Councilor Piltch advised that he is supportive of solar farms and feels they are a great idea and has no problem with small solar farms in all the places that they are indicated for in town. For the large solar farms, he asked if anyone has looked at the offset of clearing 20 acres of forest land to put in 20 acres of solar panels. What is the net carbon emission of one versus another? He does not know that and is curious about it. The Route One corridor is the one he has concerns about one from a visual impact and the other from a commercial impact. As we try to grow our town and our tax base in town, if we designate 20-30 acres along side of Route One to be a ground-mounted solar farm, that precludes that land being used for anything else. If the panels are going on top of a warehouse or as a canopy going on top of a large parking lot, he doesn't see any problem with that. If it is ground-mounted and that becomes the exclusive land use for that parcel, we are certainly restricting what can be done 20 or 30 years down the road and that is our commercial corridor through town, especially Route One South is what people see as they drive into town. Those are his concerns and he doesn't know if they have been discussed or not. Ms. Pelletier offered to answer his questions. The Route One corridor, as she mentioned, they are staying out of the village, so for Route One South and the Commercial I District, which is going to go from Maine Beer down to the Yarmouth Town Line, large and small solar farms are permitted uses. If you look at the language that was put in, it is underneath the following uses are permitted: 300 feet or more from the easterly edge of U.S. Route One. If they are closer, they have additional standards that do need to be met so the intent was that those might be on sites that are less visible or set back more. On Route One North we have the Medium Density Zoning. There is a resident there that did comment at the Planning Board meeting that they did have concerns with these being permitted up there. Route One North has quite a few permitted uses there. Because it doesn't have public utilities, we are really seeing limited commercial development there. The Planning Board did put that into each and every zone that they brought this forward to you in what was appropriate. As far as trees or solar panels, there is great debate. She and Sarah were at a meeting today and some people argued about carbon footprints and that the benefit of solar is greater but you also have the trees and we are in Maine and people love the trees and some of the habitats and they left the big stands and big chunks of the trees that make up the habitat. What about the soil cleaning the water? She feels there are different thoughts on that and it is an important decision for the Council to consider. The way most communities have it is that you can clear but your only clear as much of the site that you need for the solar panels and for a 20-acre farm, that is a lot of clearing. It really wasn't something the Planning Board had huge in-depth discussions on. There is some language in there for habitat and protecting some of our environmentally sensitive areas but it wasn't really something that came up in great debate.

Chair Egan asked Caroline and Sarah to clarify that the 30 acres is roughly the footprint needed for the 5-megawatt farm? It is likely if we were to make an adjustment to the large farm size, it would reduce the footprint of the maximum array from 5 megawatts down to he guesses roughly 3 which could potentially render that use economically and viably at least at this point.

Councilor Bradley mentioned that we had a proposal for a golf course that was going to lead to a tax benefit to the Town of Freeport. He asked what is the relative taxable value of a farm versus residential? Ms. Pelletier advised that she talked to our Assessor and it actually came up at a Planning Board meeting. Under State Law for residential homeowners who have this as accessory, there is actually a State exemption. Realistically, the Assessor advised that these accessory uses that are feeding into people's homes are really not going to add a lot of value. There will be an exemption and reimbursement from the State just like all the other exemptions so we will get part of our money back. The farms are hard to give us a value because there are not a lot of them around here in Cumberland County. If we got a large solar farm, it would probably be based upon the income approach. It would also depend on where it is going. If it is going on a piece of land that is in tree growth and not on the tax rolls right now, it would contribute to a higher value. If it is a commercial property, the Assessor couldn't give us a clear determination because it is really hard to give a value not knowing the income and we haven't seen anyone sell a solar

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farm. She didn't have a great answer because there is a level of unknown there. The Legislature is still in session and solar is a hot topic and should the State make some changes he could give a different answer.

Mr. Joseph mentioned that the sales approach when these things don't change hands very often, there are very specific conditions under which they can change hands because they are long-term investment instruments most of the time. It really has to be on what they generate the profitability and that has so many different factors. The federal tax code for example. Chair Egan advised that it is not terribly hard to get what the gross revenue is on the production of the farm because all of them have contracts for the sale of that energy so you can calculate what a revenue stream is based on the production.

Councilor Reighley asked what the size is of the solar array we share with the Sewer District? Chair Egan advised that it is a little over 1.4 or 1.5 megawatts. It is in Fairfield.

Councilor Daniele noted that the Planning Board asked the Council to think about pesticide and herbicide requirements. Do we want to move on that? We should go down their questions and get a feel for how we are feeling. Chair Egan agreed that it was a good idea. Councilor Daniele mentioned that several members of the Sustainability Advisory Board sent us letters of support for this and he thinks it is important to note.

Chair Egan asked Ms. Pelletier if the Council can adopt the language here and still modify it on things Councilor Daniele just brought up and potentially make changes from the 30 acres to something different than the 30 acres. Do we have to adopt those major components in the adoption of the language? How much room do we have to make minor edits? Ms. Pelletier advised that the Council can make minor edits. If you want to change the intent of something or add large solar to a zone where it is not proposed and then publicly circulated before you, then we do need to follow the strict legal process for the Planning Board. If you want to add a fence height, you can do that. The herbicide use was interesting. It was discussed at the Planning Board and did raise legal questions should there be cases where people can't control their pests. She was advised by the Town Attorney that the State does regulate language where you restrict herbicides. If we are going to do that, we might need to get a little more guidance.

Sarah had a little more insight and she can advise how she is seeing developers bringing these forward using herbicides and pesticides if that would be helpful. Sarah advised that out of the applications that her firm has reviewed, applicants were asked about their use of pesticides and herbicides and they essentially said that they don't use them. They are clear in their maintenance and operations plans that they are using pollinator friendly wild flower seed mixture re-vegetated and things of that nature. These are companies that care about the environment and are making their best attempts. She can't say it would never come down the pipeline but generally when Planning Boards have requested, they said they don't use them and don't intend to use them. Councilor Daniele asked if the Council could put language in there that says we have a strong preference against using pesticides and herbicides so that it is on the paper and then if there is a situation that they have to use it, we understand it and we have made our case even if it is not binding?

Chair Egan explained that part of the reason for determining what is constituting bringing this back in front of us is that if we amend the language and have a representation, there is significantly more than 300 property owners that have to be notified which is not an insignificant expense or effort to boot this through the process. So that is part of the impetus for taking action on this item this evening because it has already been through those steps and if we have some small areas we can iron out for tweaks in terms of process, that would be a more efficient way about it. If there are significant concerns, we can go ahead and do that. We have had a couple of comments about the size of the large array and whether it is acceptable. He wants to figure out if there are any more questions of Caroline or Sarah.

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Councilor Lawrence asked if we say the size is 30, do we have to allow a 30-acre farm when it goes through Planning and Review? Don't they have a, "We get you want to have this, but not there"? Can we limit it that way? Chair Egan's understanding is that the application would come forward to the Project Review Board and they would rely on this language in the Ordinance to make their determination. Otherwise, the project is meeting all the criteria from their site and what they have proposed, with the only exception being whether it is 20 acres or 30 acres of actual solar size, they would be allowed to do 30 acres. The Project Review Board would not be able to put it on hold and come back and ask us if that is really what we want. That is what we are enacting tonight is the tool for the Project Review Board to use going forward so that is why he wants to be sure we got it right. Ms. Pelletier advised that the Board can't disapprove something just because they don't like it so if the applicant can meet the standards, the Board would have to approve it. She knows we have people interested in doing large farms so it is a big decision that our community needs to take seriously.

Mr. Joseph added that the Council's best bet would be to say 10 acres or whatever number you are comfortable with, and have a signing statement along with this that the Council is open to considering projects up to blank acres through a contract zoning process or something like that. Councilor Bradley pointed out that you don't have to have that in your ordinance. Any developer can come and say give me special consideration. Ms. Pelletier advised that anyone who has some kind of right title and interest in a property can bring forward a zoning amendment so if somebody has a piece under contract and they want to develop as solar. If a 30-acre solar farm is not a permitted use, they can go forward to the Planning Board and the Council for consideration through the amendment process that is already in place.

Councilor Bradley noted it sounds like the Council is uncomfortable with 30 acres. He asked why doesn't somebody propose an amendment to something we could feel comfortable with and let the developer figure out how to get more if it is an economically important decision?

Councilor Bradley moved to reduce the 30 acres to 10 acres. There was no second and he withdrew his motion.

Councilor Daniele feels the idea that anybody could come and propose something bigger makes him comfortable doing a low number like that. They can always come and say they want something bigger but we have something on the books for 10. He agrees with Councilor Piltch on Route One South if we throw a 30-acre farm there, we have lost a lot of real estate that could have been businesses. Councilor Bradley asked if it is the golf course potentially? Ms. Pelletier could not remember the acreage of the golf course. Councilor Reighley advised that looking where Moe Fogg lives, near Stonewood there is a 52-acre parcel that has been for sale a long time. It would give you an idea of the size of 52 acres. Councilor Piltch advised that the golf course is in a rural zone.

Councilor Lawrence asked if there is a natural limiting factor for these farms? 30 acres is 5 megawatts and that is a viable project. If it is less than that, we will not have large solar farms. They will all be small solar farms or accessories. Chair Egan's opinion is that we are not necessarily deleting large solar farms if we have a limit less than 30 acres. In his previous experience, very few of them were less than the 5 megawatts. Not all of them used the same acreage but many were pushed up to that size because of the challenges of finding the right site. They would use as much as possible to get that array as large as possible and then go find contract partners to offtake all that electricity. Because of the effort it takes to get one permitted through the utility, you are going to spend the same amount of effort and money permitting a 1 megawatt as you would as a 5 megawatt so you might as well permit the 5 megawatt.

Chair Egan doesn't feel the Council would prohibit large solar arrays if we changed the size maximum from 30 acres to something smaller but it would certainly have an economic impact on the decision of any

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potential project owner coming forward. Right now, it is not an allowable use anywhere in our Land Use Ordinance.

Councilor Lawrence moved to limit the size to 20 acres to give more flexibility. There was no second and he withdrew his motion.

Councilor Bradley suggested leaving it at 30 and going to bed. Councilor Reighley pointed out that the Council has spent an hour on a subject we were scheduled to spend 30 minutes on. He asked if he can call the question. Chair Egan noted we have had a couple of motions come forward but no seconds.

Councilor Piltch mentioned he would be comfortable voting on three things. If most developers are saying that they are not using herbicides and pesticides and are saying they can do without it.

He asked why can't we say you can't use herbicides and pesticides in the development of a solar farm in Freeport? It doesn't seem like that would be controversial. He would like to see us remove Route One South from the large solar farm allowable uses. He would like to see large solar farms limited to 10 acres or 20 acres with a note that we would explore contract zoning for something larger. Even 10 acres is a pretty big installation.

Mr. Joseph pointed out that regarding the comment on the herbicides, we would need to get some guidance because it has to conform with the State guidelines for banning herbicides. He thinks we can do it but we have to investigate what the State requirements are. Chair Egan asked Ms. Pelletier if we are eliminating one of the zones for the use of the large solar farms is that enough of an amendment to where we have to go back to our public process? Mr. Joseph explained that reduction is generally good.

**MOVED AND SECONDED:** To amend the proposal before us to ban herbicides to the degree we can in compliance with State Law, remove large solar farms as a permitted use in the Commercial I District and limit the size of large solar farms to 10 acres. (Piltch & Daniele) **ROLL CALL VOTE:** (6 Ayes) (1 Nay-Egan)

**Minutes are amended to clarify that Councilor Egan called for a vote on the "amended motion". He should have called for an amendment first then for a motion as amended. This is just a procedural clarification. This is to clarify that the motion voted on was the amended motion including clarification on Route 1 south and limiting the maximum size to 10 acres. See also notes on the April 27<sup>th</sup> minutes.**

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ITEM # 54-21                      To consider action relative to a 2020 Project Canopy Assistance Grant of \$8,000.

Town Planner, Caroline Pelletier explained that a year ago during budget season we talked a lot about trees and Sustainability wanted some tree work done so they applied for a Project Canopy Grant. It consists of replacing a few trees in the village and a lot of pruning because we have not been maintaining our trees. Yes, the date on this is correct. It was a year ago in May and arrived during the pandemic. When we returned, we did not have the ability due to COVID to go forward with the project although we had the money that the Council budgeted. We did have a match that we needed to do. We reached out to the State and there were other communities in similar situations. She has talked with Public Works and they feel they have the staff capability to get the work done. The biggest problem might be getting trees. She has talked to the State and if the Council still wants to go forward with the project, we would accept

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the grant. She will submit the signed grant back to the State and we will request an extension to complete the work by the fall.

Councilor Bradley asked if we have to come up with an \$8,000 match. Ms. Pelletier replied that the Council does not. It was put in the last Capital Budget. We had to pay the cost upfront so this is a reimbursement so we already have the \$16,000 there and we will get reimbursed. Mr. Joseph advised that the money is still earmarked for a grant match for this project. If we turn down the grant, we will return the money to the Capital Fund. Councilor Bradley asked if the money came out of TIF? Ms. Pelletier offered to look it up.

Councilor Whitney thanked Ms. Pelletier for all the work she does.

**BE IT ORDERED:** That the 2020 Project Canopy Assistance Grant of \$8,000 awarded to the Town of Freeport by the Project Canopy Assistance Program be accepted by the Town Council. (Lawrence & Reighley)

Ms. Pelletier was pretty sure the money was not from the TIF.

**ROLL CALL VOTE:** (7 Ayes) (0 Nays)

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**OTHER BUSINESS:**

1. Discussion regarding consent agreement request submitted by Kirk and Kate Goddard

Chair Egan explained that the property owners requested that their attorney make a presentation. We have a submitted proposed consent agreement disposition of subdivision land and dividing out of lots that has happened over a long period of years and a proposal from the property owners about how to resolve a Subdivision violation in our Ordinance.

Mrs. Goddard explained that her husband is also on the call tonight and explained the positions he held on Town Boards and Committees. They would not be here tonight if they didn't have to be. A year and a half ago they were contacted by an attorney that they had used, Powers and French. He told them that he had been contacted by our Codes Enforcement Officer with some questions and asked if he had their permission to speak to them. Five months later and \$2,000 later the first contact they got from our CEO was a letter with nine questions. Three were related to Subdivision, three related to Accessory Building Structures and three related to road frontage. At that point they decided they needed to get legal advice so they hired David Soley and Mary Costigan who is arguably the foremost attorney for municipalities in the State and knows her codes. She will give a quick presentation. Both attorneys were assured by the Town that they were seen as good faith actors early on in the process and the Town wanted to come to a good quick resolution. Unfortunately, that didn't happen and eight months later they received a letter from the Town Attorney that stunned them, and also a question about a barn that they have and the question was are they using it as a residence. That was stunning from the standpoint that they didn't have a permit and didn't have a certificate of occupancy so it would have been illegal to do that and that is not how they operate. In the 20 years that they owned this land, they did nothing without talking to Fred Reeder. Her husband walked on the land with Fred and was asking for advice on how they could be sure to follow the law and ordinances that were in place. During the 16 years that they built, they received 8 permits and 6 certificates of occupancy. Fred never said once that they were doing anything wrong and only one time did he suggest they speak to an attorney which they did. On a personal note, they had been together for 41

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years and a year and a half ago they separated. Their divorce is on hold pending resolution of this because they don't know the status of their land. In addition, they can't put their house on the market because their certificate of occupancy for their current house that was reviewed and approved by Fred Reeder has been questioned by the current CEO. Their road frontage for their house that was reviewed and approved by Fred Reeder is being questioned and the right-of-way to the property that abuts their house that was reviewed and approved by Fred Reeder is being questioned. They have learned through Nick and Mary that there is a nuance to the Statute Title 30A that they could not understand. Attorney Costigan will explain that piece and they certainly understand it now. Going forward if they are to do anything with their land, they would continue to work with Attorney Costigan to ensure they get everything right as well as our Codes Enforcement Officer. It is their hope that the Council will consider their proposed consent agreement.

Mr. Joseph noted that Attorney David Soley is in the audience and is welcome to watch. Attorney Mary Costigan with Bernstein Shur shared a screen showing maps and Chair Egan noted that the Council is very familiar with those maps of the site. Attorney Costigan advised that the Goddards purchased the 50-acre parcel in 2001. They gifted 71-A to Kirk's parents in 2001. 71-C was the first division in 2001 and was a sale to a third party. Kirk was aware of the Subdivision Law and it is perfectly legal to divide one lot at a time and waited five years. He waited five years. Going to Lot 71-1 and in 2006 it was deeded from Kirk and Kathleen Goddard to Kirk and Kathleen Goddard. There is a deed on record and they believed it was the creation of a lot. They waited another five years and in 2011 she went to Lot 71-2 and it was created by depicting that lot on the plan and recording that plan in the Registry. To Kirk's knowledge that was sufficient to create that lot in 2011. Lots 71-1 and 71-2 were recorded in the Registry. Five years passes and now we are in 2016 and Lot 71-3 was a gift to Kathleen so that was an exempt lot. The final division was in 2016 as well and that was a sale to Claire Prescott of Lot 71-4. That leaves us with the remaining Lot 71 which includes 17 acres and Piebald Point that has not been conveyed off. There is an occupancy permit for that but it has not been conveyed out. She pointed out the 50-foot right of way which is a gravel road. The Piebald Point Road is a 30-foot right-of-way.

Attorney Costigan explained that the Goddards were surprised to hear that they potentially had some subdivision issues since Kirk worked with the CEO every step along the way and received multiple permits for the buildings on these properties and really believed that they were waiting every five years to do one division. This slide shows the Council the technicalities of what happened. The bolded dates are the dates she mentioned earlier. In 2006 there is a deed from Kirk and Kathleen to Kirk and Kathleen. They sold that lot to a third party in 2013 and unbeknownst to them, by selling it to themselves they did not create a lot for purposes of subdivision so back in 2006 by creating a new lot by selling it, he did not. The first division technically was in 2013 not 2006. In 2015 that is where we have a second division within five years that creates the three lots. The reason for that division and the technicality there is that the file she referred to earlier that was filed, was also not sufficient to create a subdivision because it was also held by the same landowner. They did not transfer that land in 2011. They held on to it, but it was in a plan so the only thing that had to have happened in 2006 and 2011, to not have us here tonight, is for Kirk and Kathleen to sell to either Kirk or Kathleen or to another party. The sales were five years apart and they were not more than three lots in five years. This is where we are. From the Goddards' perspective, these lots were all treated as separate tax parcels by the Town so in addition to the permits being issued and the tax aspects, they believed they were in full compliance with the Subdivision. It was a year and a half ago that they found that surprising news. Over the years there were multiple permits issued on this property, notably a permit to build a house on 71-2 and a permit to build a house on 71-1. The house on 71-1 happened after the conveyance and 71-1 and 71-2 were also subsequently conveyed in 2017 and 2018.

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They have been trying to negotiate for more than a year and hit an impasse. They thought the good faith actions of the Goddards would be sufficient and throughout the negotiations they were never told they had to go through Subdivision because there were some reasons other than the technicality. It was simply a technicality that brought that in. They are asking about issues related to the letter that was written and are hopeful that this consent agreement will resolve those outstanding issues. One is that they are asking that the Town not take any enforcement action to abate the alleged subdivision. In something like this, all the lots are developed and the road is developed and people have been there for years. It is impractical, if not impossible, to go back after the fact and try to have some sort of subdivision review of those lots.

They are also asking that the Town recognize that 4 Piebald can be conveyed as currently configured. It has been permitted. There is a certificate of occupancy there. It is on a 30-foot right-of-way that only serves two lots and they are asking that it be recognized and they can convey that out. They are also asking that 3 Piebald be recognized as a single-family home. There was a pattern with the CEO and Kirk that certain buildings would be built on sites as accessory buildings and they would be built without kitchen appliances. Once the property was conveyed, that accessory building became the primary building on the site, the kitchen would be added and a certificate of occupancy would be issued. In the case of 3 Piebald you will see that a certificate of occupancy was issued after it became the primary use of the property, but the way Fred did his certificates of occupancy, there was a building permit with a note on the righthand corner of the C of O. He didn't change the language on the building permit so it still said without a kitchen. He issued it after the sale when it was the primary use so the intent was there to issue it as a single-family home. It did get a building permit without a kitchen but needed the appliances to be added. They are asking that the current Lot 71 which is the 17-acre lot and for 4 Piebald be treated as a separate tract parcel of land moving forward. It is the cleanest way and most consistent way to move forward and give the Goddards a clean start and put this behind us. They certainly, from this moment forward, will be talking to them every step of the way to make sure what they do is not triggering Subdivision. If it does trigger Subdivision, they will go forward and get the proper approvals. They are just trying to have a clean practical solution and they are here because of a technicality.

Chair Egan is not prepared to make a decision this evening and he advised that the Council will have more conversation. He feels there is a general consensus that we are trying to treat residents fairly and appreciates the transparency on Kate's intent all the way through in terms of how she described the actions and the Council will balance that with what is in front of it in terms of our Land Use Ordinance.

Councilor Bradley, all transparency, they are close friends of his and he served on the Council with Kirk. He knows the family. He knows their intent and knows their love for the Town. The Council talked about this in its session so they know, Kate does not have to convince us of who you are and how you feel about the Town and what you mean to the Town. Every Councilor here has a sense of that and he knows Kirk is listening. Speaking for himself, what happened was a technicality and he doesn't see that this is something they should be punished for. He will not speak for any other Councilor, but thinks we are moving in a direction in their discussions but he can't talk about because they were in Executive Session. We are moving in a positive direction not punitive if that makes sense. We do have to have more detail and a little more input. Chair Egan noted the next meeting will be on April 6 and he intends that we have a resolution at our next regular meeting.

Attorney Soley noted that they are in the Council's hands. Everybody acted in good faith and followed what Fred did to the tee. Fred was a phenomenal Code Enforcement Officer. If anyone has questions in the meantime, please call him, Attorney Costigan or Kate and Kirk. They will answer every question transparently and fully. This is just a technicality that we who have lived in Freeport for a long time never foist against our own people.



Mrs. Goddard appreciated what Councilor Bradley said and she was as honest as she could be about needing to sell their house. Whatever the Council can do to move this forward, they are in the Council's hands. They can be patient for another three weeks. Chair Egan explained that for all of the Council to participate, it has to be a posted public meeting so we have to maintain that schedule. They will have an opportunity to confer with our Manager and Town Attorney on exactly our steps and get something back to her. Mr. Joseph added that the Council can let Mary and David know that Amy will be reaching out to them as a result of some of our conversations between now and April 1<sup>st</sup>.

~~2. Update on Downtown Visioning Project was covered at the beginning~~

3. Discussion on Cannabis

Chair Egan noted this is an informal presentation on the current status of cannabis cultivation in our community. We have two business owners and he believes both will be here and will want to make comment. The request is for the Council to begin potentially to agree whether or not to begin a discussion about having what is called an opt-in where the Town recognizes the State Law on the different categories of the industry and the production and sale and manufacture of cannabis products which is now legal. If we do that, we would eventually need to have proposed language in Zoning descriptions so the whole process of allowing a new use in our Land Use Ordinance. The reason why it has to go through that is because previously these two business owners currently are designated as servicing the medical cannabis community and by State Statute were not required, other than the usual building regulations, to have any special consideration under Ordinance in relation to cannabis. Recent State regulations have now required any business owner involved with cannabis that wants to operate in a community, the first step is that that community has to opt in to allowing an array of potential uses for cultivation, manufacture, testing, retail and social clubs as well. This presentation is to give an update to the Council from two current business owners in good standing in the community and where they are seeing the industry and the market place and probably an outline of what their eventual request will be to the Council on this matter of cannabis as an industry.

Peter Ingrams thanked the Council for their time. They just offset all of their carbon foot print by solar. He advised that he has been involved in cultivating medical cannabis in Freeport since 2017 with no complaints or violations. He employs 15 people now and many of them support the local economy. He is asking that he can continue to do what he has been doing in the last four years but in the more restrictive adult use marketplace under the more restrictive adult use rules. That would require this issue being passed over to the Ordinance Committee for drafting an adult use ordinance. The reason he is asking for this is because he and David Stephenson are both licensed with medical cultivation right now and that whole program is changing quite drastically very soon. They expect that the current rules are being discussed in Augusta right now and could drastically limit the medical program and in turn push the adult use program. They saw this coming and brought it to the Council in 2019 and the Council held a workshop in January of last year and he and about a dozen others spoke in support of adopting an ordinance for the cultivation of adult use cannabis. At that point the State had not finalized the adult use rules and they had not seen any track records for municipalities. Some Councilors voiced their concern that maybe we should wait to make any decision on this until the State had adopted and put out their regulations and requirements for licensure for regulations. They have seen some municipalities handle these businesses that are coming for adult use. Now over 60 municipalities have opted in and dozens of cultivations like theirs have opted in and are open and are generating cash revenues and providing local jobs and they are operating under the more strict oversight and regulatory compliance required under the adult use that isn't required under the current medical use program. In essence, he wanted to ask for consideration of adopting the ordinance. By Freeport taking no action in this matter, they would not be able to participate in the new adult use business. They are not looking to sell out of Freeport or any retail

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location in Freeport. David Stephenson is the other operator in Freeport and is also licensed by the State and would like to say something about the economic impacts and some of the changes happening in Augusta that would benefit municipalities.

David Stephenson thanked the Council for providing an opportunity for him to speak this evening. He has a cultivation facility at 24 Noble Drive. He has had that operation since 2017 and employs 25 local Mainers. He is seeking to obtain a State license for adult use cannabis cultivation at this facility which is not possible at this time since the Town has not passed an ordinance like this to transition to the adult use market. He hopes to keep his business here. He is not seeking to open a retail store but simply wants to maintain a reliable cannabis cultivation business at his current facility and sell to the adult use market. In addition to bringing in tax revenues and licensing fees to local communities, Maine lawmakers are considering several bills during this session to allow towns to tap into that revenue. A new report shows the legal cannabis industry added 77,000 new jobs in the country in 2020. The cannabis industry provides about 321,000 jobs in states where it has been legalized and a 32% increase over the previous year at a time when the national economy shrank 3.5% due to the pandemic. As of October 2020 legal cannabis has become Maine's most valuable agricultural commodity with sales growing 160% in 2019 and 2020. Maine's Office of Marijuana Policy reported over \$9M in sales by adult use businesses between October 2020 and February 2021 and these totals are expected to increase significantly. He encouraged Councilors to send this to the Ordinance Committee and start the process for developing regulations to allow a business like his to continue to provide quality jobs and remain in Freeport.

Councilor Reighley asked in this opting in that the Town has to do, how do you think it would fare on a referendum to asked Freeport citizens if they would approve both the growing for recreational use and also with the explanation that there are more stringent requirements for that? How do you think Freeport residents would fare in a referendum for voting in a retail operation or a medical dispensary or testing facility for either one of those things? Five different things would be considered.

Mr. Ingrams replied that he thinks it would depend on how the Ordinance is written. Freeport would have a lot of flexibility in how the ordinance is written. It could limit the zones where any sort of cannabis operations would be able to do business. Councilor Reighley clarified his question and asked how Mr. Ingrams feels it would fare if there was a question on the ballot? Mr. Ingrams felt it would depend on what the question was. If it was a limited amount of cultivators for instance in limited zones, he feels it would fare okay. In terms of retail, he is not sure Freeport is there yet. He is not sure a referendum would favor that.

Councilor Bradley asked if the Ordinance Mr. Ingrams would like to see Freeport develop, limits him to specific economic or cultivation practices? Could the Council make it as tiny as it wanted or as large as they wanted? Mr. Ingrams advised that yes, that is the way the State allows it. The Council can select how many operators to have and which ones of the five types of operations that Councilor Egan referred to and where it can be done. The Town can also charge a certain amount of money for that. Portland charged \$10,000 for a license annually.

Councilor Bradley asked about the people these entities hired, how many live in Freeport. Mr. Stephenson advised that he has one Freeporter and Mr. Ingrams does not have any Freeporters.

Chair Egan advised Peter and David that this would be considered by the Council but he does not have a timeframe yet. He recognizes the urgency with the changing of State rules and what is happening with the industry so now that we have had this presentation, the first step would be for Council leadership to discuss whether or not it comes on to our next regular meeting for potential workshopping of which they would be invited. It is now front and center for us and we will be getting some sort of resolution on a

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pathway to some sort of decision. He doesn't know which way that will go. He appreciates their patience sticking with the Council tonight particularly sticking with us until 10:55 p.m. and they will get something going here soon to let them know which way they are going to go.

4. Continued discussion regarding Council process for review of Bartol Library proposals

Chair Egan advised that this item is something the Council has had discussion on previously and we are going to discuss whether or not the Council wishes to move forward with consideration of a proposal for the use of the Bartol Library which involves Councilor Piltch and whether or not we are going to consider that to be a conflict. We have had an Executive Session and input from the Town Attorney. He knows that Councilor Piltch is anxious for some kind of resolution on how this is going to go. It is clear that Councilor Piltch cannot participate in the conversation. Unless people feel the urgency to move to Executive Session to have that conversation, he doesn't think the Council needs to. We are not debating the proposal. We are debating whether or not we can consider the proposal, which is something we do in this meeting to decide whether there is an impediment and conflict regarding a number of different factors with Councilor Piltch. Councilor Reighley advised that it is not debating, it is discussing.

Councilor Piltch provided a brief update on what has changed. At the last meeting the issue of the actual conflict which he thinks he is addressing by stating that he is not going to participate in any conversation relating to the lease and any conversation related to the management of the building after the lease. There is also the perception of conflict in his participation in the Downtown Revisioning Project as a member of the project organizing committee. His belief is that the organizing committee is just organizing, not influencing. They are just accepting input from the public, organizing it and reporting it to the Council. Because there is a possible perception of conflict, he stepped away from that since our last meeting. He has not been to any of those project organization meetings and those planning meetings that happened weekly for that project and will stay on hiatus from that until we figure out what is going to happen with the lease and whether it is yea or nay. He would be happy to answer questions before he steps away.

Councilor Bradley advised that he appreciates Councilor Piltch's decision and knows it is not easy and doesn't think it is great for the Town to have him step away in terms of the substance in terms of what that committee does but he thinks it really helps at least him to free up his mind to deal with the conflict perception issues. His only question is what does it mean to take a hiatus? He asked Councilor Piltch if it turns out the lease proposal is considered and accepted, he would stay away or is he saying he will come back in? What does he mean by hiatus? Councilor Piltch noted he doesn't know how the Council will land so it is hard to predict the future. If it turns out there is too much controversy and the Council wants to do something different with the building and he will not be involved, he would want to come back in and remain there. If the lease comes back and it is all signed, sealed and delivered and there is no room for changing it, then he will participate as a business owner as well as a Councilor not to influence but to participate. The proposal he submitted for that side of the business was submitted before the Downtown Revisioning Project even started. A couple of meetings ago he mentioned that if anything coming out of the Downtown Revisioning Plan contradicts what he intends to do with the building, he is happy to alter plans. If they can't be altered, he would be happy to withdraw the plans. He does not want to do anything with the building that doesn't support what the public has said they want to do with our downtown. He is happy to add that contingency into the lease.

Chair Egan advised that at the last Council meeting the Council voted to not take action on the proposal in general until it saw some tangible direction from the visioning process which may or may not inform. There may be a brilliant idea that comes out of that process that the Council hasn't thought of and before it makes its decision on a handful of proposals it has now, it may want to wait and entertain such an idea.

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We took a vote out of the last meeting to not actually dispense of a decision on those proposals until at least after the first meeting in May for the Downtown Vision Group. This evening's action is whether or not we are going to consider having a conversation about the proposal that came from the group that includes Dan Piltch. This is the time for Councilor Piltch to sign off and the Council will let him know how it was resolved. Councilor Piltch signed off.

Mr. Joseph added that the open question at the end of the last meeting, the Council was heading in the direction that Chair Egan just described. The question was is it fair to not give a clear answer if the Council felt the conflict issue was insurmountable to Dan and not let him think there was any consideration of that going on. That is the question we are hoping to answer tonight so we can get back to him with clarity.

Chair Egan added that before we contemplate what may come out of the public process on Downtown Revisioning, and what future conversations here might be about the disposition of that important asset, he thinks before we even get to that we have to conclude whether or not we want to consider the proposal from the group that includes Councilor Dan Piltch. He feels it is fair for us to decide that now to give him clarification on whether or not his group should wait around until May or if he separates from that group or any other decision he may want to make. The Council heard from Councilor Piltch that in an attempt to eliminate perceptions of conflict, he has withdrawn from any involvement in the Downtown Visioning Group. He has already made it perfectly clear that he would not be a part of any decisions obviously on the Council in terms of this issue.

Councilor Bradley feels Councilor Piltch has gone as far as we could ask him to go to resolve the actual but perceptual issues and he has met every concern raised as far as he is concerned. His answer would be yes, he would consider his proposal for the use of the Bartol Building without fear that he was either actually or perceptually in conflict as a Councilor making a proposal for a Town building. Councilor Lawrence agreed. Vice Chair Whitney agreed and noted that Councilor Piltch is not at the meetings any more. Councilor Daniele agreed and since Councilor Piltch is taking that step, he would consider having him back on those committees because he said he would and that would be fine with him. Vice Chair Whitney added that from the beginning, Councilor Piltch's whole thing is about transparency and he has indicated that as part of that transparency he would step down and hopefully we will get him back soon. He has done such work to get them back on track and she feels that almost anyone of them could jump off now because it is about Principle leading the community voice. We know where Councilor Piltch is and she feels having him off right now just for that transparency because you never know how people are going to react to things these days. For us to be able to consider a cool option, she thinks he has done the right thing. Councilor Reighley feels Councilor Piltch has been very honest and above board with everything he has presented to us. He respects him and what he has done. We need to work on what we want to do regarding this building. He would be happy to have him continue on and he is waiting to make a decision on what we are going to do, buy, sell or go to Dan or anything else. He is doing the right thing. Keep him around.

Chair Egan surmised that we have a consensus that we can, as a group, move forward with consideration of the proposal amongst the others for the group that includes Councilor Dan Piltch and we will not be obstructed by a perception of conflict since he has stepped down from his participation in the community revisioning process and that he will recuse himself and insulate himself from any decisions here at the Council level about disposition of those proposals. If that is the consensus, he will take the initiative to relay that to Councilor Piltch tomorrow so he has an idea of what is up with this group and his proposal is still under consideration but it won't be decided upon until we finish our process and at least get to the next milestone in the event we hear some potentially informative ideas from that process.

**MOVED AND SECONDED:** To adjourn at 11:05 p.m. (Reighley & Whitney)

Councilor Bradley asked if the Council was to go into Executive Session, now that we have kicked out the conflict issue resolve, would leadership be in a position to describe to the rest of the Council what the competing proposals are for Bartol so we might give it some thought. He has no clue and really does not know. He has a rough idea but doesn't want to make this meeting go any longer than anyone else does but if we are going to come back without any introduction to those competing proposals, and no chance to think about it or talk about it, he would spend another 15 minutes if you had it. Chair Egan agreed with Councilor Bradley but is not prepared. He does not have the information handy or off the top of his head. We can actually circulate through the Manager that information excluding Councilor Piltch. We have a way to do that.

Mr. Joseph asked what is the due date or the expected date when the Downtown Planning Process will be sufficiently along that the Council is comfortable considering this. It is a month out from now maybe? Vice Chair Whitney noted they had originally been on for May 16<sup>th</sup> or whatever the close date is. Mr. Joseph advised that the Council has two regular meetings in between and can schedule an Executive Session to talk about exactly what he just raised which is probably correct. We would want to have that discussion before the Council makes any decision so at least you know what is on the table. Chair Egan agreed but the point is that Councilor Bradley does not have any information at all about what the proposals are because we didn't get that far. He does not have that information handy but will get to it and move it forward in the month of April.

**ROLL CALL VOTE:** (5 Ayes) (1 Nay-Bradley) (1 Recused-Piltch)

Respectfully submitted,

Sharon Coffin, Council Secretary