

**TOWN COUNCIL MEETING #07-2002
MARCH 26, 2002 - 7:00 P.M.
TOWN COUNCIL CHAMBERS**

SUMMARY AGENDA

- ITEM #49-2002 To consider action relative to proposed amendments to the Zoning Ordinance concerning the Pesticide Spraying in the Resource Protection1 Zone (RP-1) (Chapter 21). (Public Hearing)
- ITEM #50-2002 To consider action relative to an amendment to the Administrative Code Concerning the Community Development Committee (Chapter 2). (Public Hearing)
- ITEM #51-2002 To consider action relative to the Capital Improvements Program for Fiscal Years 2003 to 2007. (Public Hearing)
- ITEM #52-2002 To consider action relative to the Webster Road Flood Mitigation Project – Phase II.
- ITEM #53-2002 To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure (Chapter 31).
- ITEM #54-2002 To consider action relative to the approval of matching funds for the Land for Maine's Future Grant and accept a Casco Bay Land Opportunity Grant to acquire Florida Lake property.

OTHER BUSINESS:

1. Update from the Conservation Commission on the potential purchase of the Cummings Property adjacent to Florida Lake.
2. Discussion on a proposed donation of properties on the Grant Road from the Nature Conservancy.

Adjourn.

AGENDA
FREEPORT TOWN COUNCIL MEETING #07-2002
TOWN HALL COUNCIL CHAMBERS
MARCH 26, 2002 – 7:00 P.M.

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

FROM: Dale C. Olmstead, Jr.

TO: Robert Stevens, Chairperson, Porters Landing
John Arsenault, Vice Chairperson, Prout Road
Kenneth Mann, Mann Road
David Soley, Arnold Road
Eileen Lowell, So. Freeport Road
Rod Regier, South Street
Susan Campbell, Hunter Road

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of Meeting #06-2002, held on March 19, 2002 and accept the Minutes as printed.

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

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

COUNCIL MEETING #07-2002
MARCH 26, 2002

ITEM #49-2002 To consider action relative proposed amendments to the Zoning Ordinance Concerning the Pesticide Spraying in the Resource Protection 1 Zone (RP-1) (Chapter 21). (Public Hearing)

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

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

ITEM #50-2002 To consider action relative to an amendment to the Administrative Code Concerning the Community Development Committee (Chapter 2). (Public Hearing)

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed amendment to the Administrative Code be approved.

ITEM #51-2002 To consider action relative to the proposed Capital Improvements Program for Fiscal Years 2003 to 2007. (Public Hearing)

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

MOTION: That Item #51-2002 be tabled until April 2, 2002.

ITEM #52-2002 To consider action relative to the Webster Road Flood Mitigation Project - Phase II.

BE IT ORDERED: That the cost of the Webster Road Flood Mitigation Project - Phase II - be negotiated with the low bidder on Phase I of the project.

BE IT FURTHER ORDERED: That the Town Engineer and Town Manager be authorized to negotiate the price on behalf of the Town.

ITEM #53-2002 To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure. (Chapter 31).

BE IT ORDERED: That a Public Hearing be scheduled for April 9, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Coastal Waters Ordinance.

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

**COUNCIL MEETING #07-2002
MARCH 26, 2002**

ITEM #54-2002 To consider action relative to the approval of matching funds for the Land for Maine's Future Grant and accept a Casco Bay Land Opportunity Grant to acquire Florida Lake property.

BE IT ORDERED: That the following be accepted to provide for the purchase property outlined in the Grant applications (Rogers and Brewer/Hasted and Properties).

- Land for Maine's Future Grant - \$200,333
- Casco Bay Land Opportunity Grant - \$5,000

BE IT FURTHER ORDERED: That \$90,000 be expended from the Land Purchase Reserve Fund to provide for the Town's match.

BE IT FURTHER ORDERED: That the Town Manager be authorized to sign the Project Agreement with the Department of Conservation on behalf of the Town of Freeport.

OTHER BUSINESS:

1. Update from the Conservation Commission on the potential purchase of the Cummings Property adjacent to Florida Lake.
2. Discussion on a proposed donation of properties on the Grant Road from the Nature Conservancy.

Adjourn.

**MINUTES
COUNCIL MEETING #07-2002
FREEPORT TOWN HALL COUNCIL CHAMBERS
March 26, 2002-7:00 P.M.**

<u>CHAIRPERSON'S CALL TO ORDER</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Robert Stevens, Chairperson Porters Landing	x		
John Arsenault, Vice Chairperson Prout Road	x		
David Soley Arnold Road	x		
Susan Campbell Hunter Road	x		
Rod Regier South Freeport Road	x		
Kenneth Mann Mann Road	x		
Eileen Lowell South Freeport Road	x		

FIRST ORDER OF BUSINESS: TO WAIVE THE READING OF THE MINUTES OF MEETING #06-2002 HELD ON MARCH 19, 2002 AND ACCEPT THE MINUTES AS PRINTED.

Councilor Regier pointed out that under the second order or business, the votes to open and close the public comment period were incorrectly shown as 6 Ayes, 1 Excused when they were actually 4 Ayes and 3 Absent.

MOVED AND SECONDED: TO WAIVE THE READING OF THE MINUTES OF MEETING #06-2002 HELD ON MARCH 19, 2002 AND ACCEPT THE MINUTES AS AMENDED (Councilors Mann & Campbell) (7 Ayes)

Chair Stevens pointed out that the Town is using its website as much as possible and as much public notice as possible is being given for meetings. The Planning Board will be meeting on April 3 to look at accessory apartments and will be following up in May looking at setbacks. On April 1 the School Committee will be meeting on the budget process. It will have a public hearing on April 3 in the High School Library at 7 p.m. On April 10 the Planning Board will be meeting and reviewing the proposed Shaw's grocery store. Public input is welcome.

COUNCIL MEETING #07-2002
MARCH 26, 2002

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

MOVED AND SECONDED: To open the Public Comment Period for Non-Agenda Items only.
(Councilors Campbell & Regier) (7 Ayes).

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

ITEM #49-2002 To consider action relative proposed amendments to the Zoning Ordinance Concerning the Pesticide Spraying in the Resource Protection 1 Zone (RP-1) (Chapter 21). (Public Hearing)

MOVED AND SECONDED That the Public Hearing be opened. (Councilors Campbell & Soley) (7 Ayes).

Ron Seaman, Superintendent of South Freeport Water District expressed concern against spraying upstream of the public water supply. Charlotte Bishop of Maquoit Drive mentioned that her property requires hand spraying and she has checked and learned that the cost of spraying two trees would be \$100 and she would be reimbursed \$12 by the Town which is the cost for aerial spraying.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Soley & Arsenault) **ROLL CALL VOTE:** (7 Ayes).

BE IT ORDERED: That the proposed amendments to the Zoning Ordinance be approved as amended. (Councilors Campbell & Arsenault)

Councilors Regier asked that the Planning Board revisit the issue of spraying pesticides in the Resource Protection zone. Discussion followed. Councilor Mann brought up the issue of spraying for mosquitoes on a regular basis. Councilor Soley mentioned that the Town will not spray closer than 300' to a well head and perhaps an amendment should be made to not permit spraying for mosquitoes closer than 300' as well. Councilor Campbell noted that there is no mention of the chemicals used for spraying mosquitoes and their effect on the environment. More discussion followed.

MOVED AND SECONDED: Instead of deleting Section 5, add language to it and except for pesticides approved by the Maine Department of Environmental Protection for control of browntail moths or mosquitoes by a licensed applicator. (Stevens & Arsenault) (7 Ayes).

(Stevens & Arsenault) **ROLL CALL VOTE:** (7 Ayes).

MOVED AND SECONDED: To send the issue of zone change which was just done to the Planning Board for further study and recommendations as soon as their time permits with the understanding that they look scientifically into the issue of pesticides. (Mann & Soley) **ROLL CALL VOTE:** (7 Ayes)

Chair Stevens noted how difficult this issue has been and thanked everyone for expressing their views. It is unfortunate that the Town could not come up with a solution that would have satisfied everyone. Councilor Lowell shared her concerns with the use of pesticides.

ITEM #50-2002 To consider action relative to an amendment to the Administrative Code Concerning the Community Development Committee (Chapter 2). (Public Hearing)

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Arsenault & Campbell) (7 Ayes)

Councilor Mann explained that this committee is no longer active and it needs to be removed from the Administrative Code.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Soley & Arsenault) (7 Ayes).

BE IT ORDERED: That the proposed amendment to the Administrative Code be approved. (Councilors Arsenault & Campbell) **ROLL CALL VOTE:** (7 Ayes).

ITEM #51-2002 To consider action relative to the proposed Capital Improvements Program for Fiscal Years 2003 to 2007. (Public Hearing)

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Lowell & Arsenault) (7 Ayes).

Bart Carhart displayed a schematic for Solid Waste/Recycling and explained the items he is requesting. No public comments were received. Councilor Soley suggested delaying the completion of the recycling facility (paving, fencing and landscaping) to another year. Councilor Mann asked Mr. Carhart to get estimates on paving the ramps and the entrance to the baler room. Mr. Carhart indicated he could get this information.

Jim Plummer explained the proposed comprehensive town improvements and answered questions for Councilors. Ed Campbell of Gay Drive asked if the Baker Road Construction Project could be moved and funded this year because this area is one of the few areas that is still affordable for affordable housing. He is looking to build a handicap accessible house on the Baker Road. Rodney Curtis of Oak Avenue spoke to the Oak Street Drainage/Reconstruction project planned for 2006. He was speaking for his neighbors that are all experiencing runoff from Mallett Drive. They are concerned that the Exxon may enlarge its facility. He provided a letter signed by his neighbors. Oak Avenue has no drainage at all. Discussion followed. He asked if the project could be moved up. Councilor Soley requested that Mr. Plummer go out and go through all the items on the list and attempt to prioritize the list. Councilor Mann suggested moving it to fiscal year '04. Councilor Soley suggested putting the bulldozer request off for a year. There were no other public comments.

Councilor Regier introduced a letter into the record from Peter Guffin dated March 26 regarding capital improvements on portions of the South Freeport Road and South Street. Councilor Soley asked for assurance that Mr. Plummer is not planning to increase the width of the road. Mr. Plummer advised that he is planning on paving the 3' shoulders. What is now gravel, will be paved. Discussion followed.

Mr. Olmstead advised that there are six items in Municipal Facilities. The Town Hall's roof needs to be refurbished. The exterior of the Library needs treatment. The West Street Barn needs the roofing replaced. Levi approached the Town about their plans to expand and wants to tie in with some landscaping improvements at the Bartol Library. Soule School's roof needs to be replaced but its future is still undecided. He is interested in applying for a small harbor improvement grant to replace the pilings under the Town Wharf. The deadline for applying is April 1. Another project looked at is the bulkhead at the Dunning Boat Yard. He is hopeful for another round of State grant monies. Councilor Soley asked that the Council not consider doing improvements at

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the Bartol Library and delay the Soule School roof repair until a decision is made on whether to keep it or not. Councilor Arsenault suggested checking with the County Government to see if we can get some assistance from them on labor for the Library exterior treatment. He agreed with Councilor Soley regarding the Soule School. He noted the major parking problem in South Freeport and suggested that the property be turned into green space and parking. Everyone agreed that it would be great for the Municipal Committee to reach a decision on this property.

Library—Mrs. Haines explained that the Library needs a computer upgrade. She has received an estimate of \$25,000.

Police—Chief Scolfield advised that he is requesting \$30,000 to integrate mobile data terminals into 7 vehicles, including the Clam Warden's vehicle. It will allow officers to do the things that dispatchers are currently doing, only quicker. They will also be able to fill out reports in their cruisers.

Cemetery Improvements—Barbara McPheters noted that she is asking for \$10,000 to fund cemetery improvements this year. She mentioned that the stone wall needs repair at the Freeport Crossings and some of the other repairs and clean-up that is needed at other public cemeteries. Councilor Soley commended Ms. McPheters on the phenomenal job she has accomplished with very limited funds. She noted that she can do a phenomenal job with any amount of money the Council will give her. Councilor Arsenault has spoken to the developer about protecting the cemetery at Freeport Crossings.

School Committee—members of the public were asked to comment. Brad Guay of Holbrook Street talked about the water line being proposed to irrigate the field. He feels the amount is exorbitant when the Town is facing double digit increases for 2-3 years, particularly when there may be some alternatives. He had some suggestions for a temporary supply. He pointed out that this is not a designated growth area. Anne Hindley of Wardtown Road agreed with Mr. Guay about the ballfield. The Town has already spent \$500,000 on this field and she would like to think the Town would say no to spending an additional \$200,000. Mary-Ann Schwanda of Harvey Brook Drive liked a lot of Mr. Guay's comments. She mentioned that we are faced with a 100 year drought right now and the Freeport Water Company pumped 400,000-600,000 gallons of water in a test that they said they didn't need any approval to do and they just dumped it. \$200,000 for a water line to water a field in the face of a 100 year drought is probably the wisest use of that resource. As taxpayers, we cannot sustain double digit tax increases every year. She urged Councilors to take a good hard look at this budget.

Mr. Lyman updated the Council on School Funding.

Effect on Tax Rate—Councilor Mann had questions on the 2 items to be bonded. Chair Stevens noted that these items will be revised based on tonight's discussion. Councilor Mann suggested going back to what was given out in the public domain in public hearing and amend from that.

MOVED AND SECONDED: That the Public Hearing be closed.(Councilors Lowell & Arsenault) (7 Ayes).

MOVED AND SECONDED: That Item #51-2002 be tabled until April 2, 2002. (Councilors Lowell & Arsenault) (7 Ayes).

ITEM #52-2002 To consider action relative to the Webster Road Flood Mitigation Project – Phase II.

BE IT ORDERED: That the cost of the Webster Road Flood Mitigation Project – Phase II - be negotiated with the low bidder on Phase I of the project.

BE IT ORDERED: That the cost of the Webster Road Flood Mitigation Project – Phase II - be negotiated with the low bidder on Phase I of the project.

BE IT FURTHER ORDERED: That the Town Engineer and Town Manager be authorized to negotiate the price on behalf of the Town. (Councilor Mann & Regier)

Mr. Olmstead explained this issue.

ROLL CALL VOTE: (7 Ayes).

ITEM #53-2002 To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure. (Chapter 31).

BE IT ORDERED: That a Public Hearing be scheduled for April 9, 2002 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Coastal Waters Ordinance.

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

Councilor Campbell asked if this would be posted on the website and if the Town took care for the strike out language. Mr. Olmstead advised that an expert is being asked to help with this. He will check on it again. Councilor Mann noted that he would like it made clear that the racks at the Library and the Town Clerk's office be utilized for this information. He discovered that the Town Clerk moved the information off the counter and people had to ask for a copy.

ROLL CALL VOTE: (7 Ayes).

ITEM #54-2002 To consider action relative to the approval of matching funds for the Land for Maine's Future Grant and accept a Casco Bay Land Opportunity Grant to acquire Florida Lake property.

BE IT ORDERED: That the following be accepted to provide for the purchase of property outlined in the Grant applications (Rogers and Brewer/Hastedt and Properties).

- Land for Maine's Future Grant - \$200,333
- Casco Bay Land Opportunity Grant - \$5,000

BE IT FURTHER ORDERED: That \$90,000 be expended from the Land Purchase Reserve Fund to provide for the Town's match.

BE IT FURTHER ORDERED: That the Town Manager be authorized to sign the Project Agreement with the Department of Conservation on behalf of the Town of Freeport. (Councilors Soley & Arsenault)

Mary Sauer and Steve Walker from the Conservation Commission displayed a map and pointed out where the property is located. They provided a chart showing figures covering this purchase and answered questions. They had the surveys available and the deeds are almost ready. They are hoping for a closing date in April and will develop a management plan. Discussion followed. Councilor Soley acknowledged the tremendous effort made by

Ms. Sauer and Mr. Walker and their committee in this effort.

ROLL CALL VOTE: (7 Ayes). Ms. Sauer asked for a reflection of the vote for the State Planning Office that Mr. Olmstead provided for her.

OTHER BUSINESS:

1. Update from the Conservation Commission on the potential purchase of the Cummings Property adjacent to Florida Lake.

Mr. Walker pointed out where the property is located. It is known as "Little Florida Lake." It contains approximately 17 acres and it is well maintained. Ms. Sauer has gotten an opinion of value from a realtor but it would be nice to have someone from the Council work with the Commission to help make a decision on the price. Councilor Soley volunteered and Councilor Mann will help in any way that he can. Ms. Sauer needs authority to have John Schwanda survey the line of the parcel to be sold and determine what is remaining for the Cummings. Discussion followed. Councilor Mann suggested getting an agreement that the price is right and the location is close and then the survey can be obtained. Other Councilors concurred. Ms. Sauer will work with Councilor Soley.

MOVED AND SECONDED: To consider an item not on the printed agenda. (Councilors Regier & Mann) (7 Ayes).

MOVED AND SECONDED: That the Town Manager be authorized to close on the purchase of the Rogers and Brewer/Hastedt properties for the prices agreed upon in the purchase and sale contracts. (Councilors Soley & Mann) **ROLL CALL VOTE:** (7 Ayes).

2. Discussion on a proposed donation of properties on the Grant Road from The Nature Conservancy.

Ms. Sauer and Mr. Walker pointed out where the property is located and described it. The Nature Conservancy is donating roughly 50 acres of open land on one side of the road to the Town. They will keep approximately 6-7 acres and will sell it as a single house lot. They will most likely provide a forever-wild conservation easement to the Freeport Conservation Trust. It is not final at this time. Councilor Mann asked for a copy of the conservation easement. Discussion followed. Ms. Sauer requested that this issue reappear on the April 23 Council agenda to receive approval from the Council to accept the donation.

Grant Application for Small Harbor Improvements

MOVED AND SECONDED: To consider an item not on the printed agenda. (Councilors Soley & Arsenault) (7 Ayes).

MOVED AND SECONDED: For authorization to submit a big ship application to the Maine Department of Transportation for the rehabilitation of the Freeport Town Wharf. (Councilors Regier & Arsenault). **ROLL CALL VOTE:** (7 Ayes).

Holbrook Street

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Mr. Lyman explained that this matter was discovered as they were getting ready to do the High School project. They discovered that Holbrook Street comes down all the way through the high school parking lot all the way to the portable classrooms. The setback regulations will not be met. A suggestion was made to vacate the street where the last driveway goes off to the condominiums. The Town owns the land on both sides. They are not proposing any changes in the roadway but want to be able to build the auditorium and will have to come close to this roadway. Councilor Mann suggesting using the words "discontinue" or "narrowing the road". Councilor Soley suggested having the Town Attorney look into this. Mr. Lyman will work with the Town Manager and the Town Attorney on this issue.

Fourth of July

Councilor Arsenault pointed out that he is working with Chief Fournier on activities on the Fourth of July to bring a sense of community back to Freeport. They are proposing an old fashion street dance with a carnival that has rides for kids. Also being proposed is a canoe/kayak race and horseshoe tournament. They would like to create a committee called the Fourth of July Fun Day Committee to do this. He asked for Council input. The carnival will be set up on the high school grounds. The only cost they foresee is for the band. The Town could provide the parking lot. The Elders will be involved as well. Councilors concurred that Councilor Arsenault should be on this committee and thanked him.

Adjournment

MOVED AND SECONDED: To adjourn at 10:50 p.m. (Councilors Soley & Campbell)
(7 Ayes).

Respectfully Submitted,

Sharon Coffin

Sharon Coffin
Council Secretary

TOWN OF FREEPORT

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



February 7, 2002

TO: Dale Olmstead, Town Manager
FROM: Donna Larson, Town Planner
RE: Pesticide spraying in the RP-1 District

On February 6, 2002, the Planning Board held a public hearing to discuss the prohibition of spraying pesticides and herbicides in the RP-1 District (Sec. 421.D.5 of the Freeport Zoning Ordinance). The Board voted unanimously to remove this prohibition as it is inconsistent with state law (see proposed language attached). However, the Board recognizes the need for restricting the use of pesticides and herbicides in the RP-1 District, and it is their intent to consider this item at upcoming meetings.

As background, the Board of Pesticide Control is required by state law to maintain a centralized listing of municipal ordinances that regulate pesticide storage, distribution, or use. To accomplish this, municipalities must file any such ordinances with the Board of Pesticide Control. Freeport's ordinance was never filed with the state and therefore, it is an invalid ordinance. In addition, as currently written, the Freeport ordinance prohibits the use of flea collars, over-the-counter bug repellants, household uses such as ant traps, and so on, as well as strictly controlled chemicals. For those reasons, the Planning Board agreed to eliminate the invalid regulation as an interim measure until a replacement is developed. The Board hopes to bring a replacement ordinance to the Town Council within the next few months.

**PROPOSED AMENDMENT
FREEPORT ZONING ORDINANCE
CHAPTER 21**

Section 421. Resource Protection District I "RP-I"

A.

1. Purpose:

It is the intent of this District to protect the most fragile shoreline and natural areas, including flood plains, critical aquifer recharge areas and fresh and salt water wetlands, in which development would lower the water quality, significantly disturb essential natural plant and animal relationships, or general scenic and natural values, and to discourage development in unsafe or unhealthy areas.

2. Applicability:

Only areas shown on RP-I on the official Town of Freeport Zoning Map are regulated by this Section. They include critical aquifer recharge areas and the following types of areas defined in the "State of Maine Guidelines for Municipal Shoreland Zoning Ordinances", March 24, 1990, as subsequently amended: areas within 100 feet of the upland edge of portions of the Florida Lake freshwater wetland and within 250 feet, horizontal distance, of the upland edge of other freshwater wetlands, salt marshes and salt meadows and wetlands associated with rivers, which are ten (10) acres or more and are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife as of June 2, 1992; flood plains along rivers and tidal waters defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils; areas within the Shoreland Zone of two or more contiguous acres with sustained slopes of 20% or greater; land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs and productive wildlife habitat within the Shoreland Zone. However, notwithstanding that they are not shown as RP-I on the Freeport Zoning Map, any areas which are within 250' of the mean high water line of a river or tidal water and which are in the 100 Year Flood Plain as shown on the FEMA maps are included within and subject to all requirements of the RP-I District. All parcels within the RP-I District are included in the Shoreland Zone.

B. Permitted Uses:

1. Excavation, filling and earth moving up to fifteen (15) cubic yards.
2. Repair and maintenance of an existing road culvert as described in Section 507.D.3.

The following uses require a CEO permit:

3. Timber Harvesting
4. Clearing of vegetation for approved construction and other permitted uses

**PROPOSED AMENDMENT
FREEPORT ZONING ORDINANCE
CHAPTER 21**

5. Temporary and Permanent Piers, Docks, Wharves, Breakwaters, Bridges, Structures and uses extending over or below the normal high water line or within a wetland.

The following uses require a Planning Board permit as described in Section 507R below:

6. General Agriculture
7. Aquaculture
8. Non-Residential Facilities for Nature Interpretation Purposes
9. Public and Private recreational areas involving minimal structures customarily incidental to such uses
10. Public Utilities
11. Filling and earthmoving in excess of 15 cubic yards
12. Underground Utilities & Utility Poles
13. Roads to access the above permitted uses or to access permitted residential uses in an adjacent property where no other access is reasonably possible.

C. Space Standards:

- | | |
|---|-----------------|
| 1. Minimum lot size: | 2 ½ acres |
| 2. Minimum road frontage: | 200 feet |
| 3. Maximum building height: | 35 feet |
| 4. Minimum setback - front: | 50 feet |
| side: | 50 feet |
| rear: | 75 feet |
| shore: | 100 feet |
| 5. Minimum land area per existing dwelling unit: | 2 ½ acres |
| 6. Minimum shore frontage: | See Section 507 |
| 7. Maximum lot coverage with impervious surfaces: | 10% |
| 8. Minimum lot width: | 150 feet |

D. Prohibited Activities: (not to imply that such activities are permitted elsewhere)

1. Disposal of solid wastes (except brush & stumps), leachable wastes (except existing and replacement systems subsurface disposal of domestic sewage) and sludge
2. Storage of petroleum or gasoline
3. Storage of leachable wastes or solid wastes
4. Mining or excavation in excess of 15 (fifteen) cubic yards other than excavation for permitted uses and uses within public rights- of- way

PROPOSED AMENDMENT
FREEPORT ZONING ORDINANCE
CHAPTER 21

~~6. Spraying of pesticides & herbicides or application of de-icing chemicals except sand with a salt content of no more than 10 percent may be used on public rights of way.~~

6.5. Animal feedlots

7.6. Use and storage of hazardous materials as de-fined in Chapter 14 of Title 38 of the Maine Revised Statutes and hazardous wastes as de-fined in Chapter 13 of Title 38 of the Maine Revised Statutes as subsequently amended

8.7. Conversions of seasonal residences to year-round residences

9.8. Marinas

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Title 22: HEALTH AND WELFARE

Subtitle 2: HEALTH

Part 3: PUBLIC HEALTH (HEADING: PL-1989, c. 487, @11 (rpr))

Chapter 258-A: BOARD OF PESTICIDES CONTROL

§1471-U. Municipal ordinances

1. **Centralized listing.** The Board of Pesticides Control shall maintain for informational purposes, for the entire State, a centralized listing of municipal ordinances that specifically apply to pesticide storage, distribution or use. [1989, c. 93, §1 (rpr).]

2. **Existing ordinances.** The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under subsection 1 shall file a copy of that ordinance with the board by December 31, 1988. [1989, c. 93, §1 (rpr).]

3. **New ordinances.** The clerk of the municipality shall provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative body or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the board within 30 days after adoption of the ordinance. [1989, c. 93, §1 (rpr).]

4. **Intent.** It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances. [1989, c. 93, §1 (rpr).]

5. **Failure to file.** For any ordinance which is not filed with the board, with notice given to the board in accordance with this section, which is otherwise valid under the laws of this State, any provision that specifically applies to storage, distribution or use of pesticides shall be considered void and of no effect after the deadline for filing and until the board is given proper notice and the ordinance is filed with the board. [1989, c. 93, §1 (rpr).]

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes

7 State House Station

State House Room 108

Augusta, Maine 04333-0007

This page created on: 2002-01-08

Adopted
PROPOSED
AMENDMENT TO THE ADMINISTRATIVE CODE
CHAPTER 2

SECTION 617 COMMUNITY DEVELOPMENT COMMITTEE

617.1 Establishment

~~The Community Development shall consist of nine members. The membership shall include three members appointed by the Freeport Merchants Association and three members at large appointed by the Freeport Town Council, each serving for staggered three year terms; one Planning Board member selected by the Planning Board and two Town Council members, appointed by the Town Council Chairperson, shall serve for one year terms. Residency requirements shall only apply to those members appointed by the Town Council. Should a permanent vacancy occur, the appointing body shall, within sixty (60) days of its occurrence, appoint a person to serve for membership, a Chair and a Vice Chair.~~

~~The Chairperson shall establish a meeting schedule for the Committee. The Committee shall meet at least quarterly. A quorum of the Committee shall be required to conduct business, and a quorum shall consist of at least five (5) members. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Committee.~~

617.2 Duties and Responsibilities

~~The Community Development Committee shall be advisory to the Town Council. The Committee shall be responsible for the following:~~

- ~~1. Develop and promote cooperative efforts and issues of interest between the Town of Freeport and the business community;~~
- ~~2. The development and recommendation of an economic development strategy for the Town. All proposals involving the Comprehensive Plan or zoning shall be forwarded to the Planning Board for consideration;~~
- ~~3. Consider, coordinate and prioritize requests for improvements to the community;~~
- ~~4. Promote open lines of communication between and among the merchant community, Town Officials and citizens of the Town of Freeport;~~
- ~~5. Meet on an annual basis with the Freeport Merchants Association, the Freeport Town Council and Planning Board to report on Committee activities and solicit input.~~

March 5, 2002

**PROPOSED
CAPITAL IMPROVEMENTS
PROGRAM**

FY 2003 *** FY 2007**

FREEPORT, MAINE

SCHOOL COMMITTEE

ARTICLE 1

Capital Funding

2002 (FY 03)

1. Technology Upgrades	\$65,000
2. 78-Passenger Bus	\$60,000
3. Water Line to Pownal Road Fields	\$200,000
4. Morse Street Electrical Upgrades	\$70,000
5. Middle School Oil Tank Removal	\$24,660
TOTAL:	<u>\$419,660</u>

2003 (FY 04)

1. Technology Upgrades	\$60,000
2. 78-Passenger Bus	\$60,000
3. Morse Street - Carpeting - Replace 62 Wing	\$20,000
4. 12-Passenger Van	\$20,000
5. Morse Street - Resurface Parking Lot	\$10,000
6. Additional Field Space	\$100,000
7. Tennis Courts - Redone	\$25,000
8. Morse Street - Roof Replacement	\$30,000
TOTAL:	<u>\$325,000</u>

2004 (FY 05)

1. Technology Upgrades	\$60,000
2. 78-Passenger Bus	\$60,000
3. High School - Redo Membrane Roof/Shop & Cafeteria	\$?
4. Pick-Up Truck - 4 wheel drive	\$24,000
5. Middle School - (Older) Siding and Windows	\$?
6. Morse Street - Bathrooms	\$20,000
TOTAL:	<u>\$164,000</u>

2005 (FY 06)

1. Technology Upgrades	\$60,000
2. 78-Passenger Bus	\$60,000
3. Mast Landing - Parking Increase and Sidewalk Repair	\$75,000
TOTAL:	<u>\$164,000+</u>

2006 (FY 07)

1. Technology Upgrades	\$60,000
2. 78-Passenger Bus	\$60,000
3. Mast Landing Roof	\$?
4. Middle School Roof/Parking Lot	\$?
5. Athletic Field Lights	\$90,000
TOTAL:	<u>\$210,000+</u>

FIRE DEPARTMENT ARTICLE II

2002 (FY 03)

1. Protective Clothing	\$12,000
2. Ladder One Waterway	\$65,000
3. Traffic Light System	\$30,000
4. 12 SCBA Bottles	\$11,000
5. Fire Engine Rust Repair	\$18,000

2003 (FY 04)

1. Sub Station (Durham, Pownall)	\$500,000
2. Protective Clothing	\$15,000
3. Fire Alarm Receiver for Dispatchers	\$45,000

2004 (FY 05)

1. Protective Clothing	\$15,000
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2005 (FY 06)

1. Protective Clothing	\$15,000
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2006 (FY 07)

1. Protective Clothing	\$15,000
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RESCUE UNIT ARTICLE III

2002 (FY 03)

- | | |
|--|----------|
| 1. Protective Clothing | \$14,000 |
| 2. Information Management System Patient Reporting | \$19,500 |

2003 (FY 04)

- | | |
|------------------------------------|----------|
| 1. Protective Clothing | \$14,000 |
| 2. Ambulance Equipment Replacement | \$25,000 |

2004 (FY 05)

- | | |
|------------------------|-----------|
| 1. Replacement of R-2 | \$120,000 |
| 2. Protective Clothing | \$14,000 |

2005 (FY 06)

- | | |
|------------------------|----------|
| 1. Protective Clothing | \$14,000 |
|------------------------|----------|

2006 (FY 07)

- | | |
|---------------------------|-----------|
| 1. Protective Clothing | \$14,000 |
| 2. Communications Upgrade | \$15,000 |
| 3. Ambulance Replacement | \$125,000 |

PUBLIC WORKS ARTICLE IV

2002 (FY 03)

1. Backhoe Replacement	\$85,000
2. Pick-Up Truck Replacement	\$24,000
3. Bulldozer (D-4) Replacement	\$80,000
4. Salt/Sand Ground Speed Control Units	\$12,000

2003 (FY 04)

1. Dump Truck Chassis Replacement (Wheeler)	\$75,000
2. Dump Truck Body and Sander	\$26,000
3. Snow Plow and Wing Replacement	\$23,000
4. Liquid Calcium/Ground Control System	\$10,000

2004 (FY 05)

1. Dump Truck Chassis Replacement (5-7 yard dump)	\$55,000
2. Dump Truck Body/Sander	\$18,000
3. Snow Plow and Wing Replacement	\$24,000
4. Liquid Calcium/Ground Control System	\$10,000

2005 (FY 06)

1. Road Grader Replacement	\$190,000
2. Dump Truck Chassis Replacement (5-7 yard dump)	\$56,000
3. Dump Body and Sander	\$19,000
4. Snow Plow and Wing Replacement	\$25,000
5. Liquid Calcium/Ground Control System	\$11,000

2006 (FY 07)

1. Dump Truck Chassis (Wheeler)	\$80,000
2. Dump Body and Sander	\$28,000
3. Snow Plow and Wing	\$26,000
4. Liquid Calcium/Ground Control System	\$11,000
5. Fork Lift	\$12,000

SOLID WASTE/RECYCLING ARTICLE V

2002 (FY 03)

1. Completion of Recycling Facility (Paving, Fencing & Landscaping)	\$174,000
2. Leachate Lagoon Closure Implementation	\$70,000
3. Broom Attachment for Skid Steer Loader	\$6,000
4. Provide Water to Recycling Facility	\$17,000
5. Retaining Devices	\$27,500

2003 (FY 04)

1. Loader Replacement	\$49,000
2. Garbage Compactor and Roll-Off Container	\$22,500

2004 (FY 05)

1. Baler Reconditioning	\$10,000
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2005 (FY 06)

1. Closure of Remaining Landfill	\$150,000
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2006 (FY 07)

1. Two (2) Open Topped 40 Yard Containers	\$10,000
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COMPREHENSIVE TOWN IMPROVEMENTS

ARTICLE VI

2002 (FY 03)

1. South Freeport Road Reconstruction (Pine St. to Porters Landing)	\$74,000
2. South Freeport Road Drainage	\$74,000
3. South Freeport Road ATL Lane (Bicycle Lane)	\$74,000
4. Sidewalk Reconstruction - Main St. (Holbrook St. to GAP Bldg.)	\$10,000
5. Webster Road Improvements (FEMA Grant)	\$70,000
6. Main Street Reconstruction Project (Freeport Crossing to West St.)	\$20,000

2003 (FY 04)

1. Carriage Road Reconstruction/Drainage	\$29,000
2. Pettingil Road & Scotch Pine Road Reconstruction/Drainage	\$20,000
3. Merrill Road Reconstruction/Drainage	\$46,500
4. Sidewalk Reconstruction - School Street (Main St. to Middle St.)	\$25,000
5. Sidewalk Reconstruction - Main Street (Maple St. to Church)	\$10,500

2004 (FY 05)

1. Pleasant Hill Road Reconstruction - Phase I	\$74,000
2. Pleasant Hill Road Drainage - Phase I	\$74,000
3. Pleasant Hill Road (ATL, Bicycle Lane, Walk Lane)	\$74,000

2005 (FY 06)

1. Pleasant Hill Road Reconstruction - Phase II	\$74,000
2. Pleasant Hill Road Drainage - Phase II	\$74,000
3. Pleasant Hill Road Ledge Removal	\$74,000
4. Pleasant Hill Road (ATL, Bicycle Lane, Walk Lane)	\$74,000

2006 (FY 07)

1. Oak Street Drainage/Reconstruction	\$28,000
2. Baker Road Construction Project - 1300 Ft. (From End of Paved Section to Town Line)	\$29,000
3. Cottage Street and Forest Street Reconstruction/Drainage	\$41,000

MUNICIPAL FACILITIES ARTICLE VII

2002 (FY 03)

1. Roof Improvement - Town Hall	
2. Library Exterior Treatment	\$12,000
3. West Street Barn Roofing and Repairs	\$15,000
4. B.H. Bartol Library Grounds Improvements	\$16,000
5. Soule School Roof Replacement	\$30,000
	\$32,000

2003 (FY 04)

1. Copier Replacement - Town Hall	
2. Flooring Replacement - Public Safety	\$17,500
3. Town Hall Computer Upgrades	\$15,000
4. Town Hall Expansion	\$35,000
	\$500,000

2004 (FY 05)

1. Copier Replacement - Library	
2. Central Air - Public Safety	\$17,500
3. Parcel Map Infrastructure Update (GIS)	\$74,000
	\$60,000

2005 (FY 06)

1. Interior Painting - Town Hall and Public Safety	
2. Computer Upgrades - Public Safety	\$15,000
3. Copier Replacement - Public Safety	\$25,000
	\$15,000

2006 (FY 07)

1. Public Works Building Expansion	
2. Copier Replacement - Library	\$275,000
3. Flooring Refurbishing - Library	\$15,000
	\$26,000

**FREEPORT COMMUNITY LIBRARY
ARTICLE VIII**

2002 (FY 03)

1. Computer Lab Computers

\$25,000

2003 (FY 04)

No Requests at This Time

\$ -0-

2004 (FY 05)

No Requests at This Time

\$ -0-

2005 (FY 06)

No Requests at This Time

\$ -0-

2006 (FY 07)

No Requests at This Time

\$ -0-

**POLICE DEPARTMENT
ARTICLE IX**

2002 (FY 03)

1. Integrate Mobile Data Terminals into Vehicles	\$30,000
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2003 (FY 04)

1. Pickup Replacement - Special Enforcement	\$18,000
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2004 (FY 05)

No Requests at This Time	\$ -0-
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2005 (FY 06)

1. Bullet Proof Vest Replacement	\$10,000
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2006 (FY 07)

1. Computer Upgrade	\$44,000
2. Portable Radio Upgrade	\$15,000

**BOARDS, COMMITTEES,
COMMUNITY GROUPS AND OTHER REQUESTS
ARTICLE X**

2002 (FY 03)

- | | |
|--|-----------|
| 1. Recreation Committee - Facilities Development | \$750,000 |
| 2. Cemetery Improvements | \$10,000 |

2003 (FY 04)

- | | |
|---|-----------|
| 1. Recreation Committee - Facilities Development | \$750,000 |
| 2. Cemetery Improvements | \$10,000 |
| 3. Conservation Commission - Open Space Acquisition | \$500,000 |

2004 (FY 05)

- | | |
|---|-----------|
| 1. Conservation Commission - Open Space Acquisition | \$500,000 |
| 2. Cemetery Improvements | \$10,000 |

2005 (FY 06)

- | | |
|--------------------------|----------|
| 1. Cemetery Improvements | \$10,000 |
|--------------------------|----------|

2006 (FY 07)

No Requests at This Time	\$ -0-
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EFFECT ON TAX RATE

FOR EACH \$100,000 BONDED BY THE TOWN COUNCIL, THE FIRST YEAR IMPACT WILL BE 0.5 CENTS ON THE TAX RATE. THE SECOND YEAR IMPACT WILL BE 1.8 CENTS BASED ON AN AMORTIZATION OF TEN (10) TO TWENTY (20) YEARS.

FUNDS REQUESTED AND RECOMMENDED FUNDING SOURCES FOR 2002 (FY 2003)

	<u>RESERVES</u>	<u>TIF</u>	<u>BOND</u>	<u>BOND (Voter Approval)</u>
EDUCATION	\$ -0-	\$ -0-	\$220,000	\$ 200,000
FIRE	\$ 95,000	\$ -0-	\$ 41,000	\$ -0-
RESCUE	\$ -0-	\$ -0-	\$ 33,500	\$ -0-
PUBLIC WORKS	\$ 201,000	\$ -0-	\$ -0-	\$ -0-
SOLID WASTE/RECYCLING	\$ 35,000	\$ -0-	\$ 85,500	\$ 174,000
TOWN IMPROVEMENTS	\$ 150,000	\$30,000	\$142,000	\$ -0-
MUNICIPAL FACILITIES	\$ 75,000	\$30,000	\$ -0-	\$ -0-
LIBRARY	\$ 25,000	\$ -0-	\$ -0-	\$ -0-
POLICE	\$ 30,000	\$ -0-	\$ -0-	\$ -0-
BOARDS, COMMISSIONS				
*RECREATION FACILITIES DEV.	\$ -0-	\$ -0-	\$ -0-	\$ 750,000
*CEMETERY IMPROVEMENTS	\$ -0-	\$ -0-	\$ 10,000	\$ -0-
 TOTALS	 \$ 611,000	 \$60,000	 \$532,000	 \$1,124,000
 COMBINED TOTAL		 \$2,327,000		

CURRENT DEBT

TOWN & SCHOOL
\$8,569,300

DEBT LIMIT
\$109,235,045
(15% OF VALUATION WHICH IS
\$728,233,638)

SCHOOL CONSTRUCTION
(LOCAL & STATE)
\$8,698,000

TOTAL DEBT SERVICE

\$17,267,300

FREEPORT CONSERVATION COMMISSION

Memorandum

To: Freeport Town Council

From: Mary M. Sauer, *MMS*
Chairperson, Freeport Conservation Commission

Date: March 11, 2002

Subject: Proposed donation of property on Grant Road

The Conservation Commission requests that the Town Council vote to accept a donation of approximately 50 acres of land on Grant Road from The Nature Conservancy (TNC). This is the property that we have discussed with the Council on previous occasions. The donation property lies adjacent in part to the tax-acquired property you acted on last year. About 5 acres of the tax-acquired property is being developed by Habitat for Humanity for two house lots, and the Freeport Housing Trust will deed the back 5 acres to the Town after the Town takes ownership of the TNC donation property.

Before conveyance of the donation property to the Town, TNC will grant a conservation easement to the Freeport Conservation Trust. The easement sets forth the allowed uses and restrictions on the property. Hunting, snowmobiling, and other traditional recreational uses will be allowed on the property with restrictions as stated in the easement. ATVs, however, will not be allowed. The most recent draft of the easement negotiated between TNC and the Trust is attached.

The property includes a small pond and associated wetlands. TNC will retain a lot of about 7 acres at the edge of the donation property, and plans to sell this land as a residential lot. TNC will grant an easement to the Town over the back part of this residential lot in the event that the Town wishes to have access to the dam for maintenance or repair.

Steve Walker and I will attend the Town Council meeting on March 19 and will be happy to answer any questions you may have.

Thank you.

CONSERVATION EASEMENT

WHEREAS, The Nature Conservancy, a non-profit corporation with offices in Brunswick, Maine ("Grantor") is the owner in fee of certain real property located on the Grant Road in the Town of Freeport, County of Cumberland and State of Maine more particularly described in Exhibit A hereto annexed (hereinafter the "Protected Property"); and

WHEREAS, the Protected Property contains 46 acres (more or less) of undeveloped land containing fields and forest which provides wildlife habitat as well as scenic open space; and

WHEREAS, the Freeport Conservation Trust (hereinafter "Grantee") is a non-profit corporation as defined by Title 33, Maine Revised Statutes Annotated, Section 476(2)(B) as amended, and is a Qualified Organization under Section 170(h)(3) and an Exempt Organization under Section 501(c)(3) of the Internal Revenue Code, as amended, to wit; a publicly funded, non-profit corporation, authorized to accept lands and easements for the purpose of preserving and protecting the educational, natural, scenic, and open space values of real property in and near Freeport, Maine; and

WHEREAS, the Grantor and Grantee, recognizing the importance of preserving the Protected Property as part of a scenic area important for its wildlife habitat and scenic open space, have the common purpose of conserving the natural habitat and preserving the Protected Property for science, education, wildlife habitat, low impact recreation, and scenic open space purposes by the conveyance of a Conservation Easement on, over, and across the Protected Property, which will prevent the use of the Protected Property for any purposes or in any manner that would conflict with these purposes except as expressly permitted herein; and

WHEREAS, this Easement is created pursuant to Title 33, M.R.S.A. §§476 through 479-B, inclusive, as amended; and

WHEREAS, the State of Maine has repeatedly sought to foster the conservation of the State's forest, wetlands, open space and other natural resources through planning, regulation, land acquisition, and tax incentive programs, including, but not limited to Article IX, Section 8 of the State Constitution and Title 36, M.R.S.A. §1106A ("Open Space Tax Law"); and

WHEREAS, the Town of Freeport has adopted an Open Space Plan which encourages the creation of neighborhood open spaces to protect wildlife habitat and to provide areas for low impact recreation; and

WHEREAS, the conservation mission of the Freeport Conservation Trust and the State's goals identified in the preceding paragraphs would be advanced by conserving this property because of its wildlife habitat and open and scenic qualities;

NOW THEREFORE,

KNOW ALL PERSONS BY THESE PRESENTS that the Grantor, as an unconditional gift, does grant unto the Freeport Conservation Trust, a non-profit corporation with a mailing address of 101 Lower Flying Point Road, Freeport, Maine 04032, and its successors and assigns (collectively, hereinafter "Grantee") a perpetual conservation easement (as more particularly set forth below) in the Protected Property, said Protected Property being more particularly described in Exhibit A attached hereto and incorporated herein, and shown on a Plan of Land on Grant Road for

The conservation easement and restrictions hereby conveyed to the Grantee consist of covenants on the part of the Grantor to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that these covenants shall constitute a servitude upon the land and run with the land. Grantee accepts such covenants in order to conserve the wildlife habitat and recreational and scenic values of the Protected Property for present and future generations. If uncertainty should arise in the interpretation of these restrictions, judgment should be made in favor

of conserving the Protected Property and its wildlife habitat in its natural, open and scenic condition.

I. Restricted Uses of Protected Property.

The restrictions hereby imposed upon the Protected Property are as follows:

1. The Protected Property shall be used for wildlife habitat, low impact recreation, education, and scenic open space purposes only. No commercial, industrial, or mining, activities shall be permitted, and no building or structure shall be constructed, created, erected or moved onto the Protected Property, except as specifically permitted under this Grant. . Dogs shall be permitted on the property provided they are under effective voice command. Hunting shall be limited to shotguns no larger than 12 gauge. No trapping shall be permitted except with the express written approval of the Grantee.

2. No rights-of-way, easements of ingress or egress, driveways, roads, or utility lines shall be constructed, developed or maintained into, over, under, or across the Protected Property, except in connection with the uses specifically permitted under this Grant, and no motor vehicles shall be allowed on the Protected Property except for (a) vehicles used during construction and maintenance activities specifically permitted herein and (b) snowmobiles permitted to pass through the Protected Property on well-marked trails (the location of which shall be approved by Grantee) that form a part of a larger, established trail system.

3. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property; provided, however, that the Grantor may erect and maintain reasonable signs indicating the owners of the Protected Property, boundary markers, signs restricting access on the Protected Property, memorial plaques, and temporary signs indicating an event on the Protected Property. Grantee may erect and maintain signs designating the Protected Property as land under the protection of the Grantee.

4. The placement, collection or storage of trash, human waste, or any other unsightly or offensive material on the Protected Property shall not be permitted. Any waste disposal system shall be constructed, reconstructed, and maintained in a manner that will prevent discharge of waste, treated or untreated, into the streams or other fresh waters located on or about the Protected Property.

5. Except in connection with the construction and maintenance of permitted structures, there shall be no disturbance of the surface, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except that remediation of pre-1995 excavation shall be allowed with written consent of the Grantee. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

6. The Protected Property shall not be subdivided or conveyed in separate parcels without the prior written permission of the Grantee.

7. No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of the Grantee, is or may possess the potential to become inconsistent with the intent of this Grant, such intent being the protection of the scenic, recreational, educational, and natural habitat values of the Protected Property and the conserving of these values by the conveyance of conservation restrictions and development rights to prevent the use or development of the Protected Property for any purpose or in any manner which would conflict with the maintenance of those values.

II. Permitted Uses of the Protected Property.

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Protected Property:

8. The right to construct, maintain and rebuild one three-sided shelter for ice skaters and one privy or composting toilet, provided that they do not, in the judgment of the Grantee, significantly impair the natural and scenic appearance of the landscape when

viewed from the Grant Road.

9. The right to construct and maintain on the Protected Property, fences, benches, nature observation blinds, foot bridges, steps and walkways, and one gravel parking lot for not more than six cars, provided each such structure or facility is approved by Grantee and located in a manner which will minimize the loss of wildlife habitat potential and the impact on the scenic beauty of the Protected Property.

10. The right to repair, rebuild, improve, and maintain the existing dam and to utilize, maintain, and improve the existing pond and other water sources, courses, and bodies within the Protected Property for uses otherwise permitted hereunder.

11. The right to erect and maintain boundary and trail markers and to clear, construct, and maintain trails, no wider than six feet, for walking, skiing, and other non-motorized recreational uses, and for snowmobiling (but not other motorized recreational activities) within and across the Protected Property.

12. The right to mow and cut shrubs, saplings, grasses, and other vegetation to maintain and reclaim open fields for the purpose of maintaining trail access and enhancing grassland habitat values. The right to clear, manage and restore vegetation and forest cover and other vegetation by selective cutting and/or planting so as to promote and maintain the health and aesthetic qualities of the Protected Property and the wildlife therein and to protect the public health and welfare, together with the right to clear and restore forest cover and other vegetation that is damaged or destroyed by the forces of nature such as ice storms, fire, or disease, and when necessary to prevent the spread of disease or invasive species or to eliminate or reduce potential forest fire fuel, all in accordance with a plan prepared by a licensed forester and approved by Grantee, the approval of which shall not be unreasonably withheld. Under no circumstances shall this paragraph be deemed to be the reservation of any right to manage and/or harvest the forest cover for commercial purposes, provided, however, the material cut and harvested pursuant to this paragraph may be put into the stream of commerce, sold or used as

compensation for the forester and/or operator so long as the harvest or cut was pursuant to the plan prepared by the forester and the primary purpose was the furtherance of the goals set forth in this paragraph.

13. Grantor reserves the right to control, limit or prohibit, by posting and other means, any public use of the Protected Property which may have an adverse impact on the Protected Property as a wildlife sanctuary. Notwithstanding any public use of the Property, neither the Grantor nor the Grantee assume any greater obligation to maintain the Protected Property than due under Maine Law, and Grantor and Grantee claim immunity or limitation of liability to the fullest extent of the law.

IV. Enforcement of Restrictions; Affirmative Rights.

14. Grantee shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantee may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, the Grantee shall have the right to reasonable access to the Protected Property. In the event that Grantee becomes aware of any event or circumstances of non-compliance with the terms and conditions herein set forth, including any activity otherwise permitted which is exercised in a manner that is detrimental to the scenic, recreational, and wildlife sanctuary values to be protected by this Easement, Grantee shall give notice to Grantor of such event or circumstances of non-compliance via certified mail, return receipt requested, and demand corrective action sufficient to abate such event or circumstances of non-compliance and restore the Protected to its previous condition.

15. Failure by Grantor to cause discontinuance, abatement, or such other corrective action as may be demanded by Grantee within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Grantee to bring an action in a court of competent jurisdiction to enforce the terms of this Grant and

to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Grantee to corrective action on the Protected Property, if necessary. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss, and damage to the Protected Property and accordingly entitle Grantee to such equitable relief, including but not limited to injunctive relief, as the Court deems just. The remedies described herein are in addition to, and not in limitation of, any other remedies available to Grantee at law, in equity, or through administrative proceedings.

16. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair Grantee's rights or remedies or be construed as a waiver. Nothing in this enforcement section shall be construed as imposing a liability upon a prior owner of the Protected Property, where the event or circumstance of non-compliance shall have occurred after the prior owner's ownership or control of the Protected Property has terminated.

V. Miscellaneous Provisions.

17. Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantee before commencing an activity or act, and where Grantee has designated in writing another organization or entity which shall have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of the Grantee.

18. It is hereby agreed that the construction of any structures or improvements, or any use of the Protected Property otherwise permitted under this Grant, shall be in accordance with all applicable ordinances, statutes and regulations of any federal, state or local government or agency having competent jurisdiction over the Protected Property.

19. Grantee shall transfer the development rights and conservation easement and restrictions conveyed by Grantor herein only to a qualified conservation organization that agrees to enforce the conservation purposes of this Grant, in accordance with the

regulations established by the Internal Revenue Service governing such transfers.

20. In the event that the development rights or conservation restrictions conveyed to the Grantee herein are extinguished by eminent domain or other legal proceedings, Grantee shall be entitled to fifty percent of any proceeds from extinguishment, which shall be deemed the portion which pertains to the extinguishment of Grantee's interest. Grantee shall use any such proceeds to preserve undeveloped and open space land in Freeport.

21. Notices.

A. Notices to Grantee: Any Notice to Grantee required hereunder must be made by certified mail, return receipt requested, addressed to: Freeport Conservation Trust, 101 Lower Flying Point Road, Freeport, Maine 04032 or to such other authorized person or address hereafter designated in writing by Grantee. In the event of a change, Grantee agrees to notify Grantor of the proper addressee by certified mail, return receipt requested. Notice to Grantee and requests for approval must include, at a minimum, sufficient information to enable Grantee to determine whether proposed plans are consistent with the terms of this Grant and the conservation purposes hereof. Within 30 days of receipt of the Grantor's written notice made in compliance herewith, Grantee shall respond to said notice, stating any specific objections and including suggested changes to guide Grantor in modifying proposed plans to bring them into compliance with the terms of this Grant. Grantee's failure to reply within thirty days of receipt of Grantor's written notice, or within thirty days of any subsequent correspondence from Grantor regarding a reply to Grantor's previous notices, shall be deemed a determination by Grantee that Grantor's plans are consistent with the terms of this Grant and the conservation purposes hereof, except to the extent that any activity therein is expressly prohibited by the terms of this Grant. Any consent or approval by Grantee, express or implied, may be relied upon by Grantor as an estoppel to future objections by Grantee to the extent that the activity or construction undertaken or completed does not deviate from that approved.

B. Notice to Grantor: Any Notice to Grantor shall be made by certified mail, return receipt requested, addressed to: The Nature Conservancy, Maine Chapter, Fort Andros, Suite 401, Brunswick, Maine 04011, or such other address as Grantor may designate in writing.

C. In the event that the Protected Property is conveyed by Grantor to a partnership, trust, municipality, or corporate entity, the signature of one general partner, the trustee, the town manager, or the registered agent, shall be deemed the signature of all owners. Any consent, agreement or approval made in writing by a general partner, trustee, town manager, or registered agent shall be deemed the consent, agreement or approval of Grantor and be binding on all owners of the Protected Property.

22. Amendment

Grantor and Grantee recognize that circumstances could arise which might justify modification of certain of the terms, covenants or restrictions contained in this Grant. To this end, Grantor and Grantee have the right to agree to amendments to this Grant, without prior notice to any party, provided that in the sole and exclusive judgment of Grantee, such amendment furthers or is not inconsistent with the conservation purpose of this Grant. Amendments will become effective upon recording at the Cumberland County Registry of Deeds.

Notwithstanding the foregoing, the Grantor and Grantee have no right or power to consent to any action or to agree to any amendment that would increase the level of development beyond that permitted by the express terms of this Grant, would limit the term or result in termination of this Grant, or would adversely affect the qualification of this Grant under Section 170(h) or Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any regulations issued pursuant thereto.

23. In any deed or legal instrument conveying any interest (including a leasehold) in all or a part of the Protected Property, Grantor shall make reference to the conservation easement and restrictions described herein and shall indicate that said

easement and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor shall also notify Grantee in writing at least ten days in advance of such transfer of the names(s) and address(es) of Grantor's successor(s) in interest.

24. The term "Grantor" shall include the successors and assigns of the original Grantor herein, and all provisions requiring consent or notice (or where the context otherwise requires) shall refer to the then current owner of the Protected Property. The term "Grantee" shall include the successors and assigns of the original Grantee.

25. Invalidity of any provision hereof shall not affect any other provision of this Grant.

TO HAVE AND TO HOLD said granted development rights, conservation easement and restrictions, with all privileges and appurtenances thereof, to the said Grantee, Freeport Conservation Trust, its successors and assigns, to their own use and behoof forever, and the said Grantor, for itself, its successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that it is the sole owner of the premises and has good right and title to convey the same in the manner aforesaid, that the premises are free from every encumbrance, except those of record, and hereby engages to warrant and defend the same against the lawful claims of all persons.

IN WITNESS WHEREOF, _____, the duly authorized
_____ of The Nature Conservancy, has executed this Conservation Easement
this ____ day of _____ 2002.

Signed, sealed and delivered
in the presence of:

The Nature Conservancy

Witness

By: _____
Its _____

STATE OF MAINE

Cumberland, ss

_____, 2002

Personally appeared the above-named _____, known to me to be the _____ of The Nature Conservancy, and made oath that the above instrument signed by him/her is his/her free act and deed and the free act and deed of The Nature Conservancy.

Before me,

Notary Public

My commission expires:

Maine Chapter
The Nature Conservancy

Fort Andross • 14 Maine Street • Suite 401 • Brunswick, Maine 04011
Tel. (207) 729-5181 • FAX (207) 729-4118

October 24, 2001

Freeport Conservation Commission
Att: Ms. Mary Sauer
14 Harvey Brook Drive
Freeport, ME 04032

Dear Mary,

This is to confirm our previous verbal communications re the property on the Grant Road in Freeport owned by The Nature Conservancy.

We are prepared to donate to the Town of Freeport the 45-plus acres south of Grant Road shown on the enclosed map as "Open Space." We have no recent appraisal information, but believe this lot to be worth approximately \$65,000.

(The acreage will be somewhat larger than the 45 acres shown because we plan to draw a new line between the Open Space lot and what we're calling the Trade Land lot to the northwest. The Trade Land lot will be a consolidation of Lots 1 and 2 into one smaller lot with acreage less than the combined 12.75 acres shown on the map.)

The donation of the Open Space lot is subject to prior acceptance by the Freeport Conservation Trust of an easement on that lot acceptable to all parties.

We are also prepared to sell the Town the Trade Land lot at the bargain price of \$75,000. Again, we have no recent appraisal information, but believe this lot to be worth between \$100,000 and \$125,000, such that the value to the Town of the proposed bargain sale would be between \$25,000 and \$50,000. This offer expires November 30, 2001.

If the Town elects not to purchase the property, we will list it for sale on the open market. In that event, we would plan to deed a right-of-way along the western boundary of the Trade Land lot to the Town of Freeport, providing access solely for the purpose of repairing and/or maintaining the dam at the southwest corner of the Open Space lot.

We believe this offer represents the intent of the late Patricia Bousfield, the donor of the property to The Nature Conservancy, as closely as we can determine it.



Ms. Mary Sauer
October 24, 2001
Page Two

Please inform us of your decisions with respect to (1) acceptance of the Open Space lot and (2) purchase of the Trade Land lot on or before November 30.

Many thanks for the assistance of the Freeport Conservation Commission over an extended period as we've sought the best possible disposition of the Grant Road property.

Sincerely,



J. Mason Morfit, V.P.
Director, Planned Giving

Enc.: Map of Grant Road Property

Cc: Freeport Conservation Trust, Att: Mr. Ben Niles
John Dwelley, The Nature Conservancy

Concept Sketch Plan
for land on

GRANT ROAD Freeport, Maine

prepared for
The Nature Conservancy

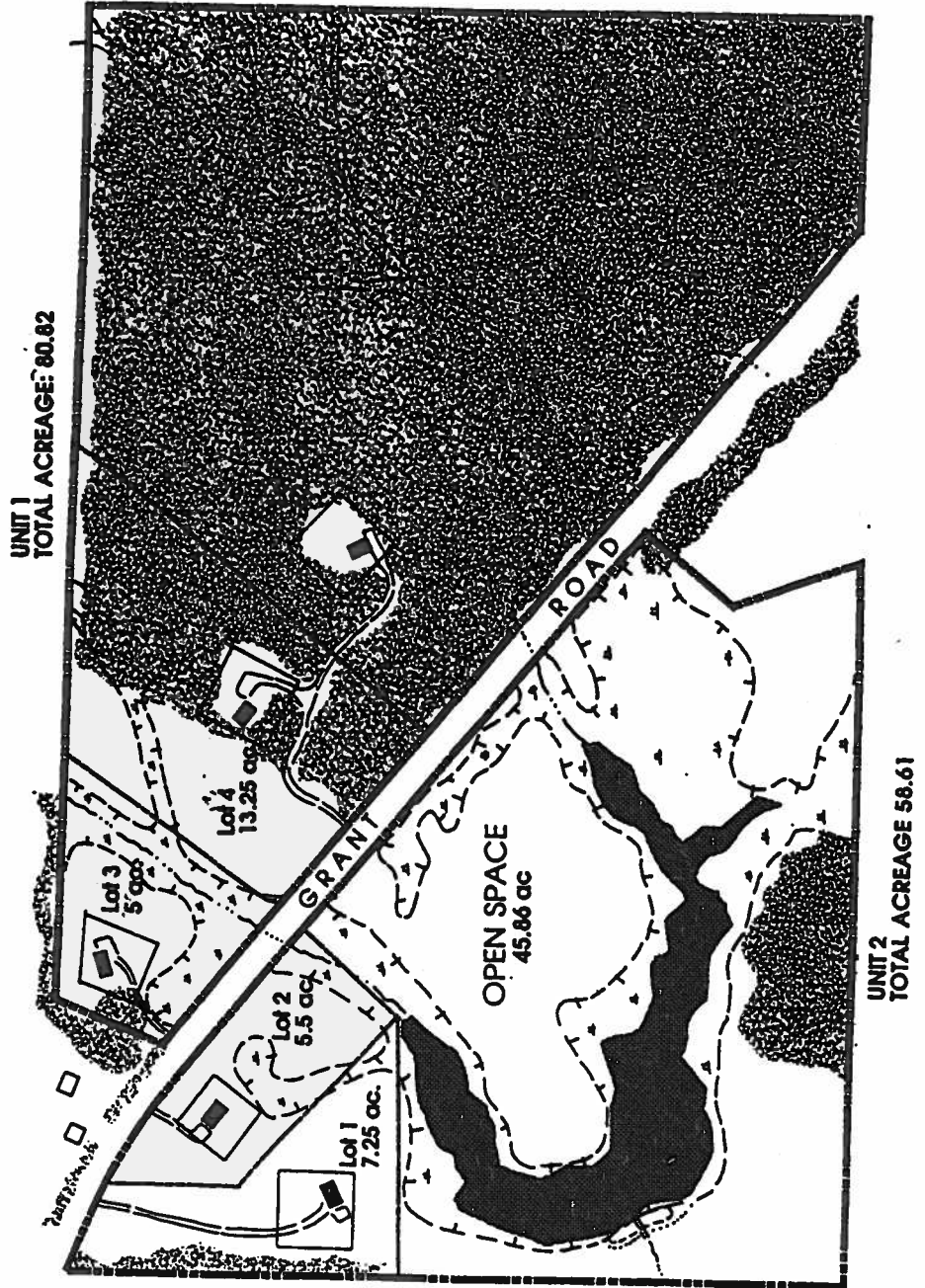
Terence J. DeWitt & Associates
Landscape Architects/Planners

Wetland mapping by
Woodlot Alternatives

Soils Investigation by
B+ZM Consulting Engineers

7 north
scale: 1"=30'

LEGEND
existing home □
proposed home ■
bldg. envelope □
lot line —
wetland —
woodland ■
stream —



November 26, 2001

J. Mason Morfit
The Nature Conservancy
Fort Andross
14 Maine Street
Suite 401
Brunswick, Maine 04011

Dear Mason:

Thank you for your letter of October 24, 2001 relaying The Nature Conservancy's offer of donation of the 45 plus acre "Open Space" lot located on Grant Road. The Freeport Conservation Commission, at its monthly meeting on November 20, voted unanimously to recommend to the Town Council that the Town accept the donation. We understand that the donation is subject to prior acceptance by the Freeport Conservation Trust of an easement that is acceptable to all parties. The Freeport Conservation Trust has notified me that it has approved the acceptance of a conservation easement, subject to its agreement to specific easement terms. I will ask the Freeport Town Manager to place the donation on the agenda at a Town Council meeting as soon as possible. I anticipate that the Town Council will want to review the language of the conservation easement before a final vote on accepting the donation.

In your letter, you also indicated The Nature Conservancy's offer to sell to the Town the Trade Land lot for \$75,000. The Conservation Commission voted not to recommend to the Town Council purchase of this lot at the offered price. I understand from your letter that The Nature Conservancy will deed a right of way along the western boundary of that lot to the Town for the sole purpose of providing access for repairing and/or maintaining the dam on the Open Space lot.

Thank you for The Nature Conservancy's commitment to ensuring that the Open Space lot is permanently protected as well as accessible to townspeople. We believe this donation represents a significant step towards our goal of protecting special natural areas in Freeport.

Sincerely,



Mary M. Sauer
Chair, Freeport Conservation Commission
14 Harvey Brook Drive
Freeport ME 04032

cc: Ben Niles, Freeport Conservation Trust
Steve Walker, Freeport Conservation Commission
Dale Olmstead, Town Manager