

MINUTES
FREEPORT TOWN COUNCIL MEETING #11-21
HELD REMOTELY USING ZOOM TELECONFERENCING TECHNOLOGY
TUESDAY, APRIL 27, 2021
6:30 PM (immediately followed the Town Council Workshop)

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

Using the zoom platform Chair Egan called the meeting to order at 6:30 p.m. 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

Viewing Vice Chair Whitney's flag, everyone recited the Pledge.

SECOND ORDER OF BUSINESS: To waive the reading of the minutes of Meeting #10-21 held on April 6, 2021 and to accept the minutes as printed.

Councilor Bradley referred to Line 7 of the 3rd paragraph on page 24 and requested that the word "honoring" be changed to "running."

MOVED AND SECONDED: To amend the Minutes. (Reighley & Lawrence) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

MOVED AND SECONDED: To waive the reading of the minutes of Meeting #10-21 held on April 6, 2021 and to accept the minutes as amended. (Reighley & Piltch) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

THIRD ORDER OF BUSINESS: Announcements

Chair Egan did not have any particular announcements other than it is a nice welcome to have sunny warm days like today.

FOURTH ORDER OF BUSINESS: Information Exchange

Vice Chair Whitney advised that she does not have a formal presentation on the Downtown Revisioning Plan for later on tonight. She wanted to let everyone know about their plans. They updated FEDC this morning on the beginnings of the draft coming together with the Principle Group. They were going to update the Street Gang tomorrow but the meeting has been postponed. They are also scheduling a meeting

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with all the chairs of the committees and all the Community Connectors to give them a look at the draft that Principle has come up with so they can start to give feedback and start to share those ideas with the public before it is posted. Principle will be giving a formal presentation and showing the Council the draft in May. She has had a brief look of this and feels it is amazing but this part is a little messy and they warned us of this since they are looking at over a thousand data points because we received so much wonderful input. If when the Council looks at the first draft and you do not like every idea, just realize it is about collecting ideas. This is why we like Principle because they heard everyone's voice. It is just the process of that and the starting point for them. She is confident that great things will come out of this.

Vice Chair Whitney advised that she attended an Age Friendly Freeport/Pownal meeting this past week. We are looking at Freeport Community Services taking this program under their wing which will benefit everyone. She has been trying to plan some friendly outside events to take place this summer as an energy boost or another reason to come to Freeport with an energy creates energy. She is trying to do one a month. Yesterday she found out about her idea of bringing a tethered air balloon downtown. She reached out for sponsorship to Casco Bay Ford to not only have their trucks tethered by a balloon, but also to help offset the funding. They have agreed to that. They are going to help us with \$1,500 and will be promoting it on the radio. She has written a grant request but has not yet heard back so that was also for \$1,500. The current request is for \$3,000 to cover two hours but we may up it to a full three hours and that would be \$4,000. She wanted to include Mr. Joseph in this conversation and would like him to speak to the Council about the ability to write a check for these events that will help bring business to downtown.

Councilor Bradley noted that he feels it is great that the Town will write these small checks. It will make a difference in terms of helping Tawni organize an event to know there is a start place. He also thinks that the Council does not want to be surprised at what it is funding makes sense. He doesn't believe Council approval should be necessary but Council notification would make sense. Before you pull the trigger, run around the e-mail list and say we are doing this.

Mr. Joseph noted that they have talked about a couple of different events that Tawni was talking about. They also talked with the RSU who is organizing a Movie Night in an outdoor movie series with an outdoor projector. All of these things come up with different types of sponsorship ideas and they see a lot of private fundraising being done which is actually going well and most of these things are being funded through tickets or private fundraising sponsorship or things like that. There have also been a couple of requests to have the Town play a small role, a \$5,000 event with 2,000 ticket sales. \$2,000 private sponsorships and \$1,000 of public money funding it. He has the authority to write those checks without Council approval but he and Tawni felt they wanted to make the Council aware of that. If we are going to be doing that, to make sure there is no issue. The only threshold he would have when considering any of these things to kind of sponsor them is to make sure they are open to the public, general residents and accessible and things like that. They wanted to get the temperature of the Council to make sure that that was not something there was a lot of opposition to so the Council doesn't hear that the Town is sponsoring Outdoor Movie Night or Hot Air Balloon Rides. He thinks they are all reasonable amounts in the public/private cost share would help fundraise some additional money from private sources if they see that there are ticket sales and public money. Vice Chair Whitney added that the hope is that some of these events would make money and they would be able to give the money back to the General Fund or a non-profit here in Town. She has secured a balloon for July which is AARP certified and is accessible. Councilor Reighley pointed out that if she needs other balloons, Gritty's has a balloon.

Vice Chair Whitney added that they have Coastal Winds on the books which is a 20-piece brass band with our former Chief Nourse. That is free. She mentioned that Councilor Piltch has done a wonderful job in helping to bring our Drive-in Movie Theatre with Peter Wagner at the school to life. He has a set schedule for that and fortunately the RSU is not going to ask us to offset those costs. She is conscious of not

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spending any money but if anything, making money but it is also in order to get energy behind some of these events, sometimes we do need a check to cover a deposit. Chair Egan thanked Vice Chair Whitney for all her efforts on those fabulous events.

Councilor Bradley explained that the Goddard matter is resolved, the Consent Order is signed and they are extremely grateful and relieved that they can get on with their lives. He commended Mr. Joseph and Chair Egan for all the work they did to bring this to a conclusion at the end. It was hard and important work and was done with the decency and respect for human beings that towns need to show. He thanked them.

Councilor Bradley advised that the Island Rover Clean-up Agreement has been signed by all parties. They are waiting for Mr. Gibson to recover from something he is going through to have an on-site meeting between Harold Arndt and Mr. Gibson to talk about the initial clean-up steps which hopefully will lead to a successful clean up and then move on to the next phase of a proposed arrangement that could lead to the launching of the boat. He mentioned the first step is done and he is confident not many people thought it would happen. Harold and his lawyer have been really solid earth and the rest of it is a little distant in terms of prospective but it is there and the signatures are on the page so off we go.

FIFTH ORDER OF BUSINESS: Town Manager's Report

Mr. Joseph advised that he had planned to say that the Consent Agreement for the Goddards was finalized and he agrees with everything Councilor Bradley said. It went very smoothly at the end and he was happy with the outcome.

He wanted to let the Council know that for the first time around for the budget cycle, just to let everybody know what to expect, we are going to see a budget proposal that will go out the end of this week for next week's meeting. He asked Councilors to watch their e-mails. He usually takes a lot of pride in seeing a 0%, 1% or 2% budget but it is higher this year due to the fact that last year we used a lot of one-time revenues and expenditure reductions when we had a bit of a mini panic about what the economic scenario would look like because of COVID to keep a 0% budget last year. It is not finalized yet but it is trending around the 5% kind of mark which is higher than what we usually see on the Municipal side but there will be plenty of time to talk with him and tell him what you like or don't like about it. That process goes for the next two months. We are wrapping up the Capital process tonight and the Capital Planning process and the budget process. The Council will have several meetings and the deadline for adoption of the Operating Budget is the end of the fiscal year which is usually done at the second meeting in June. That is what the schedule looks like. He would be happy to talk with anybody when that goes out this week if anyone wants to chat before next Tuesday's meeting. The Finance Director and he will do a presentation next Tuesday night for the Council.

Mr. Joseph advised that they have been very busy at Town Hall. Development is off the charts. He is joking that the Planning and Codes Office is going to put a table down the middle of Town Hall and stack their applications from that end of the building to this end because that is how many there are out there. It is complete insanity. He apologized in advance for the length of time it has been taking to get things done. It is not a crisis by any means but they are used to turning things around in a week or two but it has been running three weeks because of the sheer number of building applications. We are seeing one of the biggest building booms that we have ever seen. There is a lot of activity going on. The Project Review Board had 12 or 13 items of business at their meeting last week. It is a lot. He thanked everyone for their patience that is dealing with them at Town Hall. He hopes everything will get back to normal in a few weeks after they get passed the crunch of applications season, building season and fixing problem season.

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

Deb Smith of 295 Lower Flying Point Road thanked and commended Councilor Bradley for what he is doing regarding the Island Rover. Whatever movement we get is fantastic. It is great. Chair Egan thanked her and noted that it is always good to hear we are doing something right so good work, Councilor Bradley to hear from your constituents.

There were no other public comments provided.

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

ITEM # 64-21 To consider action relative to adopting the April 27, 2021 Consent Agenda.

BE IT ORDERED: That the April 27, 2021 Consent Agenda be adopted. (Egan & Reighley)

Chair Egan reviewed the items for members of the public.

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

ITEM # 65-21 To consider action relative to enactment of proposed Freeport Ordinance Chapter 61: Short-term Residential Rental Registration Ordinance. PUBLIC HEARING

Chair Egan explained that this is the second public hearing the Council is having on this issue. After the first one the Council received a considerable amount of input which warranted some additional work on the language in the Ordinance. We are now having a second public hearing with presentation of what we hope to be the final short-term language.

Councilor Piltch provided context and a bit of recap on where the Council is on this proposed Ordinance. He thanked everyone who worked with them for a long time. The plan is to revisit this in a year and see what is needed to be tweaked.

MOVED AND SECONDED: To open the public hearing. (Piltch & Reighley)

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

Chair Egan explained how to participant. There will be one opportunity to address the Council and speakers should stick to a 3-minute limit. Councilor Reighley requested that if a speaker has already heard another speaker say what they intended to say, please say you agree with someone else and realize that the Council has heard it and we can move forward.

Beth Marcus advised that she owns two properties in Freeport and she had no notification. The only way she learned of this meeting was through the man installing their air conditioning. She asked how residents were notified? Chair Egan explained that this has been a topic since 2019. The Town did not have a way to know how to contact Short-term Rental owners because we don't have any idea of who is actually running a Short-term rental operating at their residence. One of the compelling reasons to have this is to

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have a registry in order to communicate. She asked why the Town didn't just send a little note to people that own property. She had no clue about this meeting. Chair Egan assured her she wasn't the first one to ask this question but the Council is trying to work on how to communicate with constituents. The Council takes up issues throughout the year and it is \$6,000 or \$7,000 to mail out postcards to everybody in the community so it is not something we do frequently because of the cost. We try to use our public channels of communication on our website. We have a sign out in front of Public Safety downtown that is updated regularly with items going on in the community and rely on friends in the media to cover things that may or may not be of consequence to people in our community. We wrestle with the question all the time on how do we get information out to our residents. Ms. Marcus noted that with COVID it has been difficult because she hasn't been up there. She lives in Virginia and maybe she should register as a person that owns property not as a rental person but just make her e-mail address available. Councilor Daniele noted that Councilor Piltch has a Newsletter he has started so people could sign up for that if they are interested in getting information or follow the Town on Facebook or Councilor Piltch or he on Twitter. There are ways of staying involved with the Town on social media aspects. Mr. Joseph requested that she contact him and he would make sure she is added to our e-mail list.

Wayne Jortner advised that he forward a letter and assumes the Council will read it. He thinks there is still a problem with the Ordinance with regard to the relationship between the problem that is being sought to be resolved and the solution that is being proposed here. He understands that there have been instances related to existing ordinances were the cause of the problem. Maybe things like noise, parking or trash probably came about because they existed in instances where the owners were not present or the owners were renting to large numbers of people in investment properties. His proposal for fixing this is to exempt those that are sharing single-family homes where the owner is present. He does not believe complaints are coming from situations where the owners are present and inviting guests into their single-family homes. The other way to fix it is to limit it to two guests. He does not think the Town has seen problems that gave rise to the concerns that were the basis to this Ordinance. If the Council exempted all those who are not involved in the problem, it would be much less of a burden on people that shouldn't be burdened because they are really not causing the issues that were concerning. Airbnb has a robust reviewing system so guests doing anything wrong will get bad reviews and will not be rebooked. There is a strong incentive to behave. The same is true for owners. If they are providing substandard accommodations or in any way make the stay uncomfortable or inappropriate, that owner will not get more bookings. There is already a robust system in addition to the insurance policy was already mentioned.

Erica Skolnekovich advised that she has a short-term rental in Town. She asked what the \$100 fee goes towards? Her rental is in a commercial zone and does it affect them differently. While they don't live there, they never had had a complaint. Their neighbors seem to be happy with them. Chair Egan mentioned that they would talk about the fee later on the agenda but the fee covers staff time and resources in order to collect the registration information and process that. There is some overhead in managing the registration. It is also a manner of putting a registration fee out there that will be purposeful for people to be mindful about registering that this is something tangible for the Town as well as for them. Councilor Piltch noted that the consensus for the fee is that this is not something we want to make money on. It is just something to help offset the costs. There is no difference in the zones. A Short-term Residence in the Commercial Zone will have the same regulation as one in the Residential Zone. Mr. Joseph advised that the fee money goes to the General Fund if the Council adopts the fee schedule as proposed.

Susanne Kogut advised that this is the first time she is hearing about this. She has owned a home in Freeport since 2007 and has rented it primarily through weekly rentals. Many of the people that have rented her home have returned 10 plus years since they have been with them. She understands the intent of the regulation is designed to continue short-term rentals while minimizing negative impacts. She

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suggested that a 6-page Ordinance with compliance requirements is not balanced to maintaining short-term rentals. She feels it is overreaching. She finds it to be overly burdensome and would likely sell their home. She mentioned the date of July 1 and understands the Council is going to consider moving it. They have contractual obligations through December already. The listing of a property's location as a rental property puts their home at risk for theft if people think there is not a homeowner there all the time. They find these burdensome and could result in the sale of their home. She asked the Council to vote no on this proposal.

Deb Smith asked how do we track complaints for unregistered short-term rentals? If there is an action that results from repeated valid complaints for registered short-term rentals, what if the Town has repeated complaints about a non-registered short-term rental? She doesn't think anybody should be excluded. The idea that this condition doesn't really lend itself to problems, you have the same laws governing you just because you are a good person. She is opposed to letting outside for profit VRBO set the rules for what is appropriate for Freeport. She thinks we could consider our rules but we should not acquiesce to theirs. She is excited about the tracing of a complaint, overreaching and all if you read the substance of the six pages, there is nothing heinous. Not sprinklers, all we want is a fire alarm. She does not think it is unreasonable as a safety precaution. She disagrees with the fact that short-term renters and transients are more important to Freeport than residents.

Ian Toal explained he and his wife have been residents since 2017 and have been Airbnb'ing since after the first week they moved there. Since so many people have said they didn't know about this Ordinance, does the Council feel that this ordinance represents the complete input of the Town's citizens? He agrees with everything Suzanne said and explained that he has some unique rentals. He has a small cabin and a converted bus on their 5 ½ acre property that they rent out on Airbnb. He does not know how this ordinance would affect them in their rental situation. They never have large gatherings and try to limit it to two or three people. He requested that the Town Council reside as the governing body for the first year. If appeals go to the Codes Enforcement Officer and his concern is if that is done, he is limited by the regulations of his position and can grant variances for unique rental properties.

Mark Zimman advised that he has been speaking before the Town Council three or four years and has been participating in the Ordinance Committee meetings for the better part of a year and this is at least the second public hearing this time around but at least the third or fourth the Council has held on a wide variety of this issue. It is ingenuine for people to say they were not informed about this with it was consistently on the Town's website, in *The Forecaster* and the *Portland Press Herald*. It sort of belies the gravity of the situation that we have absentee owners who may not be aware for what is going on in our community.

The feedback for Airbnb guests is for the guests and the renters. It has nothing to do with the community where the rental is taking place so there is no place for the community to provide feedback that the property has been problematic and certainly not for life safety concerns. He has sent a letter previously but reiterated the restriction on events and turning a residential unit into a type of event facility is imperative in this Ordinance. The second is the cap on the number of people, whether it is per bedroom or total at a residence which converts the residence into some sort of event facility that has been the cause of a vast majority of the kind of noise and trash problems but not all of them. He applauded the Council for including that. As someone who has been very much involved, this is a good compromise which is a large product of a lot of work of the members of the community from all different aspects of people that rent properties and people that live next to them, people on the Council and the Codes Enforcement Officer and people in other aspects of the town. He thinks this has been a really wholesome and sound process.

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Susan Murphy advised that she is against the Ordinance. She has been renting her family property for 15 years and owns two houses in Freeport. She asked if the Council is going to give a warning to people before inflicting an enforcement fine on them? Chair Egan did not believe the Ordinance covers any enforcement fine at this point. The enforcement will be on other violations in the Land Use Ordinance. Ms. Murphy read something that said the first violation results in a fine equal to the registration fee and each additional violation is 3 times the registration fee. Mr. Joseph explained there is a procedure set forth in the draft ordinance that the section she is reading is in regards to if she does not register and continue to operate after having her registration revoked or other violations. The stick would be somebody continually having violations that could not be resolved. Ms. Murphy plans to register because she knows about it. She disagrees that it is disingenuous for people to say they just found out about it.

She asked if the Council is familiar with the State's Short-term Accommodation Rental Prohibition in committee right now? Chair Egan advised that he heard about it. She asked if it is passed, how will it affect this Ordinance? Chair Egan advised that once the State passes it, he is sure if the final legislation after it was approved and signed by the Governor says no Town shall govern or regulate Short-term Rentals, obviously we wouldn't be able to govern or regulate short-term rentals. Councilor Bradley pointed out that this is very complex constitutional question and deals with a comparison of the language of the State regulation or statute in comparison with the local ordinance which lawyers fight about all the time. For any of us to say we know what will happen would be pure speculation and uninformed. He left it at that.

Kristi Marsh explained that she is a marketing manager and part of her transition in her life is to become an empty nester and building her dream. She is in mid-stream and is paying close attention to what the Council is doing. She referred to the section on advertising. She doesn't have a short-term rental yet but will be building this year or early next year. She is building her business. She has the social media and the blogs. She talks about Freeport and is building the business in marketing. She asked if she is promoting her short-term rental is she in violation of the advertisement and if it is fair to her as she is building this up? Councilor Bradley advised that it says she can't advertise if she is not registered. That is all it says. She noted she would love to register early but without having a place, she can't get insurance and without insurance, she can't have the registration. She asked for help so she could do the right thing. Mr. Joseph read the first line saying it shall be prohibited to advertise occupancy or use of a short-term rental and then go back to the definition of what a short-term rental is. He would say if it is not constructed, she would not be advertising something that doesn't exist but he sees some potential for what Ms. Marsh is saying for a small gray area between when it is built and when she gets her registration application in. Ms. Marsh feels this is a big deal. She has been working on this since 2017. She has a foundation sitting in the ground. Chair Egan feels the Council can probably manage to accommodate her situation pretty easily since her willingness to register even before the property is built and that sounds like probably the best thing to do. We can catch up with the other registration compliance items when they are available. This seems like a pretty easy thing for staff to handle at the registration process. Councilor Daniele noted we are only trying to get a list of who is running a short-term rental.

Avanelle Piercy advised she sent an e-mail with some of her concerns. She is a Freeport resident and lives on the property where they do their short-term renting. She heard about this ordinance about six weeks ago which is 18 months after it has been in the works. She feels it is unrealistic to expect residents to stalk the Town's website to hear about notification. She agrees with Susan about the pretty aggressive fee and fine structure. A warning seems quite reasonable. We had talked in a couple of prior Council meetings about grandfathering rental agreements that are already contracted in place but she doesn't believe it is in writing in the latest draft. September 1 is a very aggressive enforcement date. She thinks a 6-9-month notification seems more reasonable. She agrees it is an excessive ordinance when we already have ordinances dealing with noise, trash and parking. She doesn't understand why a separate ordinance is

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needed on these topics to address short-term rentals when the existing ordinances should apply to renters or residents as well. She thanked the Council for its time.

Joyce Veilleux advised that everybody knows where she and her family stand on this issue. When we first started looking at Freeport and the short-term rental market, there were about 150 households conducting business and it is a business in a residential area. Many of the residents use this income to offset taxes or their children's tuitions or pay off the mortgage before they retire. That is the very essence of what Airbnb Corporation was founded on and feels it is a wonderful thing. Unfortunately, there are properties in Freeport that are unhosted and they don't seem to care what effect their guests may have on the neighbors. This ordinance will give the neighbors the opportunity to resolve these issues with the Town's help by writing in language about noise, waste management and parking. It makes the Town able to have some teeth in it. If you don't put it in the Ordinance, it does not reflect their registration capability. If we leave it as a stand-alone Noise Ordinance, they will pay the fine until the cows come home and nothing can be done to make them stop using their short-term rental as an event-center. She agrees we need to do a better job of notification and the Town needs to look at having a scrape done. There are companies out there that will go through all of the different sites and find all the people that are advertising within Freeport and their addresses so they can all be notified. She looks forward to the passage of this ordinance and then having it reviewed in a year or two years to see what needs to be beefed up or what needs to be relaxed. Councilor Reighley advised that this ordinance will be reviewed in a year's time.

Jim Hendricks advised that he has been following this for over a year. He mentioned there are a lot of people that do not follow what is going on in town and he appreciates Councilor Pilch's Newsletter trying to let people know what is happening in town. While he doesn't want to be regulated as an Airbnb owner, he does feel this is a fair compromise. He has concerns that have already been addressed on the fee structure for people that don't know that they need to register. He thinks there should be some discussion about the warning system or trying to give people a chance to comply before starting to fine them. He thinks that many properties like his have already booked people to the end of the year so what would happen on September 1 is that with all those guests that have already booked after September 1, he would not be in compliance on his property. He thinks the Council should allow people to grandfather those people that are already booked. Some people might say it would turn into a mad rush so people could book before the Ordinance is in place but really most people book when they want to book and don't pay much attention to Town politics. That is a concern for him. Another concern is the whole 24-hour 60-minute turnaround time. He understands wanting people to manage their property and be available but if he gets a call at 3 o'clock in the morning and he doesn't wake up. Will he be penalized because he did not respond to a noise call from the police or things like that? He feels that could be problematic in the future. For the most part he feels the Council has done a great job with this. While he doesn't want to be regulated, he feels it is a fair compromise but feels there could be a few things discussed again on the fines, the grandfathering and the turnaround time.

Amy McManus advised that she has known about this for 6-8 weeks and even people who are plugged in to Town politics have been caught off guard by this. An earlier speaker spoke about the concerns that are the basis for this ordinance. While there have been stories circulated about some of the things that are happening on certain streets in certain neighborhoods, she would encourage people to now believe everything they hear at face value about whether there are parties all summer long and things of that nature. She has vacationed in Maine in two properties they have owned for more than a decade now and some things have been alleged about how they rent out their homes and things that have occurred there some of which might charitably be called an exaggeration but some things might just be untrue. She has data to substantiate the falsity of the claims. On the merits of the proposal, she loves how it has changed since more voices have come to the table. She feels it is amazing and a credit to the Council. One of the things she has heard tonight is that from the public participation that there seems to be a real consensus

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that this idea of July 1 and even September 1 is too soon. She appreciates the creativity of Councilor Piltch's idea to implement July 1 but enforce September 1. It still doesn't give people enough time for people to submit the application. There is work and prework that has to be done with signage, the insurance company and testing things before you even submit the application. Typically, some towns have given their people 6-12 months or 9-12 months to get ready for something like this. She would second what people have said. The grandfathering into existing bookings has been universally approved by the people that commented tonight. The Ordinance does not provide for any warnings before fines are implemented and each day for either advertising or renting counting as a separate violation \$100 for the first violation and \$300 for the second violation, a person could be looking at a fine between \$9,000 and \$18,000 per month for not being registered for something that is about to take effect. That is tremendously problematic. The language around the ads is confusing and is not analogous to what is required of B & Bs. She feels the role of the Codes Enforcement Office is oblique in the way this proposed ordinance is written right now. Under Article J it seems the Codes Enforcement Officer reviews the initial applications and the renewal applications. It doesn't say if he makes a decision about the approval or what the criteria would be. She feels there has been great improvement and great effort but there are some tweaks that still need to happen in a deliberative way to make an ordinance that serves the residents of Freeport and the citizens who live here and the people who vacation here in the short-term rentals.

Steve Constantino advised that he lives in town and from where he sits, he can see several short-term rental units as they are pretty crowded in town. He feels the ordinance will cause more problems for the town than it will solve. He wants to complain about their short-term renters all the time because he doesn't like them for one reason or another. He asked what the Council's process is for handling that? Can he just keep complaining until they lose their chance for registration or how will the Council manage that? Councilor Piltch replied that this is one of the reasons why they wrote the ordinance the way they did which was to specifically prevent frivolous complaints from having too much of an impact. Right now, we have no way of tracking the complaints and as a Council cannot look up to see how many people have complained about this property and who has complained multiple times about this property. The ordinance allows the Council to track that and on the complaint form will be who is doing the complaining and what are they complaining about. If we see that it is a neighbor who has a lot of frivolous complaints over the course of a year, we can choose to take that into consideration at renewal time and say these are not legitimate complaints so we are going to go ahead and renew the STR. Councilor Reighley added that there will be community policing and so there will be more community involvement by our police department. Mr. Constantino asked how the Council can tell if it is a frivolous complaint? Councilor Reighley assured him that it is worked out. Councilor Bradley asked if it is true that the complaints go to the CEO and Nick gets the complaint when he comes in and investigates it and makes recommendations so we do have an investigative review of citizen complaints so he would expect that the CEO would have to collate them and make a recommendation presented to whomever is going to make the decision so we have that built in in a person that does that. It is no different than any other kind of complaint. Mr. Joseph added that the ultimate decision to take some action by the Town Council or whoever ends up being the deciding body, will have to come after a public hearing legally so the person would have rights. Evidence would have to be presented before anyone would lose their right to rent their short-term property. The provision is laid out in the ordinance under the enforcement section. Mr. Constantino noted it sounds a little like a trail so he was curious as to how the process would play out.

Tom Schwarm pointed out that the way the ordinance is written now, it sounds as if a neighbor doesn't like a neighbor for one reason or another starts complaining a lot, then how will that work? Maybe the Town has to do an investigation and then they end up suspending that person's right to rent. Many people rent for various reasons to keep their homes, taking away that rent is a blunt instrument. A person in that situation may likely appeal the decision to the Superior Court which they would have a right to do. Then

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the Town would be in the position of taking the side of the complainant and prosecuting the case against the short-term rental owner in court. He is curious as to how many cases there have been in other communities that they have had to go to court with and what kind of morass would they be creating. Essentially this ordinance is setting up an entirely separate court system run by a town. He thinks it is problematic. He asked how many cases there are right now that this ordinance is going to lead dispensing the right to rent? Five or fifty? He has no idea. Mr. Joseph advised that we have no active complaints about specific things that would be covered under this ordinance but it doesn't mean they won't be generated. The answer would be zero today. We are not aware of any lawsuits going on right now. Councilor Bradley explained that there will have to be real hard evidence that those complaints were not based on animus or some kind of personal feelings. It will have to be based on evidence that that short-term rental was violating specific provisions of the ordinance and not just once. What has changed in this ordinance and he was part of it and didn't get exactly what he wanted, but this is a registration ordinance that penalizes only egregious violations of the ordinance on a repetitive basis and he thinks the process is fair and well thought out although we will have a discussion on how it finally comes together and whether it is the Council or the Board of Appeals. He doesn't think Mr. Schwarm's concern will go slick down the trail the way he talked about. He will find it is really hard for a resident to convince whoever the body is to either revoke or refuse a renewal for a lot of the reasons he described. Mr. Schwarm noted if it becomes the Board of Appeals, it is a citizen's group that is not trained in law necessarily and they could make decisions in different ways. He feels there is a real true process issue here. Councilor Bradley wanted Mr. Schwarm to recognize that there is no one in Freeport trained in law as a group. The Town Council is one group that could do it and the Board of Appeals does it for a lot of other decisions that come out of the apparatus of the town so it is a reasonable place to put it. The ultimate point is that in order to get an action that really has a significant impact on a short-term rental, you are going to have to present hard evidence that they violated this on a repetitive basis and this is what this ordinance does and has decided to do for reasons in retrospect he thinks makes a lot of sense. This compromise is a registration ordinance that has some teeth but it is not going to be every night, every day neighbor against neighbor.

Kristin Sheehy pointed out that there is a limit of 300 spots and if everyone has not been notified of this, anyone who has not been notified does not have an opportunity to sign up. She wonders if there should be some type of notification perhaps such as with the tax information and it could be on there. It seems weird to have a limit in case people don't see this and this is their livelihood. She personally only knows about this because she uses Airbnb and they are on top of a lot of things. They do almost everything they are supposed to in this ordinance so it is not a big deal for her but she knows there are people that would need the notification and have kids or are busy. She doesn't know if the Town has a way to notify people before placing a limit. Councilor Piltch advised that this is the reason why they set the limit high enough to accommodate everyone they thought existed and he did reach out to Airbnb twice but has not heard back from them. He would be happy to reach out to them again if we do pass this ordinance as an advisory notice. Councilor Reighley advised that there are 150 people operating so that is the reason they set a limit of 300 for flexibility. Councilor Daniele pointed out that some rentals may be doing less than 14 days a year which means they wouldn't have to do anything with this ordinance anyway.

Stacy McManus advised that she co-owns two houses with her sister in Freeport. She appreciates all the work and time put in on this ordinance. She is encouraged to hear from Councilor Daniele that there will be more electronic communication that would be available. She did not know about this until right before the last public hearing on March 16. She knows it is on them to stay informed so she went to the Town's website and tried to figure out what she missed. She noticed that anytime the short-term rental ordinance was any part of a calendar event, it was listed under Ordinance Committee so if you didn't know to look for a Short-term Ordinance under the Ordinance Committee, you would not have necessarily found it just by looking at what was on the calendar. The Ordinance Committee itself is not included in the Boards' tab or the list of all Town Boards and Committees. It is not necessarily as easy as it might seem to go to

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the Town's website and find information about the Ordinance Committee broadly much less specifically to understand there is something going on with Short-term rentals. She loves the idea of Twitter and Facebook. She has not seen anything on the Town's Facebook page that has anything to do with the Short-term Rental Ordinance so she thinks there are a lot of low hanging fruit to let people know what is going on about this. She also wanted to address another topic. One thing she has noticed that has come up in Town Council meetings and the Ordinance Committee meetings, when questions or concerns come up, it sounds extremely reasonable and she truly believes what is intended and what the purpose is of the ordinance and the way that you see enforcement going. The challenge is that it is not reflected in the actual language of the Ordinance. She has heard Councilors say at both Council meetings and at the Ordinance Committee meetings that there would be a grandfather clause but there is not one in there. It raises concern when we have conversations like we just did when we were talking about what enforcement would look like and what this tribunal could look like. Councilor Bradley made some great points that you will have a really high bar and you would have to show hard evidence and all that kind of stuff but that language is not in the Ordinance. She believes it was the intention just like she believed the grandfathering clause was the intention but it isn't in there. At the end of the day what is in there is what we are going to have to go by that is what we are all going to be held to. Her advice would be that we make those things match and she agrees with we should push the implementation date back. She feels it should be at least in the fall. October 1 would be a good compromise. She believes people will be fined for not knowing there is an ordinance and not complying with it. They definitely need to get a warning first. It just seems fair.

Mr. Joseph feels there may be a little confusion because of the way there was a grandfather clause for one specific part of the original draft of the ordinance that happened that was for the one rental in each seven-day window provision that was recommended to be taken out by the Ordinance Committee recently and is not in the current version. His recollection of the discussion in front of the Ordinance Committee was that they looked at that and said is there anything else that somebody could not immediately comply with? The Ordinance Committee took that clause out after going through a list and said that none of this stuff could easily be complied with but then some other stuff was put back in so he thinks it might need a little further discussion on things like the 16-person gathering limit and things like that and now people could book starting July 1 but could have already booked on July 2, 3, 5 or August or something like that. There has been a lot of movement on the idea of grandfathered parcels if that makes sense so it is causing a little bit of confusion.

Chair Egan ended the public participation in order to get on with the agenda. He thanked everyone for their public participation.

Mr. Joseph had a letter from Michael Marcolla who could not attend tonight's meeting indicating that he feels the Council should not put a cap on the per person limit.

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

Chair Egan noted that the Council has heard from a substantial number of participants this evening on both sides of the issue. We have had a number of runs at making a number of edits to this. He asked how the Council is feeling with the proposed changes and do we have any amendments from the Council as a result of the public hearing.

Councilor Bradley advised that he has had a number of people call him about the problem we just discussed setting a limit on the number of people for an event and then having them make those commitments before we adopt the regulation so they have to eliminate bookings they already have. He

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said in private to those people that he would raise that and felt it was a fair comment and he heard that other people think it is as well. If appropriate, he would like to make an amendment to this that says that provision with respect to limitation on the number, shall not apply to people who have made commitments to an event that exceeds that number prior to the effective date of the ordinance, whatever that turns out to be. Councilor Daniele asked if he could make it broader than that? Should we make it that if you have a booking before the Ordinance takes effect, it can go forward? We are only talking about a couple of weeks or months before that happens and he can't see that many things that are going to be excluded because of this ordinance other than having too many people.

Councilor Reighley read the wording that was in the Ordinance at the time that was then Article 4 and now becomes Article 3-A at the end: Rentals booked prior to July 1, 2021 are exempt from the Ordinance restrictions.

Councilor Bradley advised that his point does not go to all provisions. What he is talking about are people that have booked more than 16 for a single event. Councilor Reighley feels that what he said will cover that. Councilor Bradley added that it will cover a lot of other things he is not interested in covering.

MOVED: To add at the end of Article 3, Restrictions 3-A: Rentals booked prior to July 1, 2021 are exempt from the Ordinance restrictions. (Reighley) (no second)

Mr. Joseph advised that this would cover a lot of things and only registrations after July 1 would have to comply with this ordinance so you could take a registration 12 months out or 18 months and you would not have to register your unit if you cut out booking registrations July 1 and you had 30 of them out there. You could do all those without having to comply with any parts of this ordinance.

Councilor Bradley mentioned that he is trying to address people that have booked events that are more than 16 people that would be prevented from doing that and have to cancel if we adopt the ordinance as written. Chair Egan advised that the only place he sees the number 16 is in Article 5, Section A-3. Councilor Bradley agreed that that is where it is.

Councilor Lawrence asked if we adopt this tonight, can we track everything and make it active March 31, 2022. That way it will cover all of this and we can track it. He thinks the idea of registration is great but he has problems with occupancy limits of 2 guests per bedroom and asked what if it is a family of 3 and they are out of compliance. How do we enforce it? Are we going to have bed checks? That is a problem. More discussion followed.

MOVED AND SECONDED: That Article 5, Section A-3 shall not apply to gatherings or events that have been booked by a Short-term Rental prior to the effective date of this ordinance. (Bradley & Reighley) **ROLL CALL VOTE:** (6 Ayes) (1 Nay-Lawrence)

MOVED To eliminate Article 4-B that has two guests per bedroom plus, an additional 2 guests. (Lawrence & Reighley)

Councilor Piltch agrees that it is difficult to enforce. The spirit of this is you shouldn't be able to advertise for 12 people if you have one bedroom because it presents safety issues, fire codes and things like that. If someone repeatedly advertises that this sleeps 15 people and it is a one bedroom, we would get to the point of saying stop advertising as it sleeps 15. Councilor Reighley added that we are trying to write this ordinance and trying to put in guidelines and boundaries but there is also common sense involved.

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Chair Egan advised that there isn't going to be bed checks and we won't be checking for any particular event unless there is a noise or some other precipitating factor and if there is a complaint from a neighbor or somebody else and if it is found that the operation of the rental is outside of what we have spelled out here, the Ordinance language allows the Town to actually have an enforcement but it will only happen if there is a complaint. Mr. Joseph added that there could be an incident where emergency services has to respond because there was an incident that happened while people were sleeping. We will pray that nobody will get hurt but it may be one way that these things will be uncovered. Nobody will be inspecting for these things but we do have an inspections clause in this ordinance. There are ways that these things could be discovered in serious things we may want to stop such as safety concerns, etc.

ROLL CALL VOTE: (1 Aye- Lawrence) (6 Nays)

Councilor Daniele noted that someone mentioned renting out a camper or a bus. He asked how does renting out a camper or a bus fit into this ordinance. If it doesn't have a bedroom like a bus, how does that fit? Councilor Bradley asked if the definition of a dwelling unit will deal with that. Mr. Joseph advised that we should be clear about things like that that are not dwelling units that are contemplated as rentals that would not be covered under this ordinance as an allowed use. Councilor Bradley asked if someone could bring up the definition of a dwelling unit. He recalled that it talked about vehicles whose wheels are on the ground. Mr. Joseph advised that there is a provision for motor vehicles such as campers or RVs that are licensed with their wheels on the ground, not like a single wide that would be an over the road capable vehicle on blocks. This ordinance does not intend to regulate those kinds of things. If it is a registered motor vehicle like an RV that can move is not intended. Town Planner, Caroline Pelletier screen shared the dwelling unit residential definition and explained that it is only designed to apply to dwelling units and would not include the trailer or bus in the yard or other things that would not be permitted. It has to be a dwelling unit to make it a short-term rental.

Councilor Bradley pointed out that this ordinance is allowing things that are otherwise prohibited. This is allowing businesses in residential areas. It legalizes a commercial use or rental of space in a residential area and we are putting restrictions around that to make sure it is reasonable for the neighbors.

Councilor Daniele asked if the Council would want to make a small change that if the rental doesn't have a kitchen or a bathroom, you can still rent it out and have so many people in a structure that doesn't have a kitchen or a bathroom if people want to rent it? Councilor Bradley asked him if this is something he would want in his residential neighborhood? Councilor Daniele could see the appeal of doing something unique and if somebody has a cool bus, that might be nice but he would not want it to be infinite.

Chair Egan noted that we are potentially trying to describe something that we don't even know what the size, scope and nature of it is so he thinks until we have further information the language that is in here is definitive enough that if we are going to allow anything to be used as a Short-term rental, it has to be an allowable dwelling unit. If someone wants to come in and explain and give details about the unique fill in the blank yurt or bus, then we can consider ways we might get to a place where those things could be considered alternative dwelling units. He doesn't think the Council should speculate on those things tonight without specific evidence. His position is that one of the purposes of this ordinance is to have clear definitions and the dwelling unit what the Town considers is a dwelling unit is a very viable definition. Councilor Piltch agreed.

Councilor Piltch suggested leaving in the language that people register by July 1, 2021 which is Article 3-A but in 5-E when we are talking about enforcement, he was going to suggest that the fines related to enforcing registration do not start until September 1, 2021. If you operate in July or August without a

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registration, you will not get fined but you want to be sure to grab your spot and it is a concern for you, you are receptive to registering early and meeting that July 1 date. He asked for consensus.

Councilor Reighley clarified that he is not suggesting any change in Article 3-A but asked where Article 5-E should be added? Councilor Piltch explained the thought behind the fines. Councilor Bradley liked Councilor Piltch's warning idea if he could make this apply only after failure to register after a warning of a two-week period. Councilor Reighley mentioned to the Town Planner that under Fees we have the Short-term rental Registration Fee of \$100 and then the Short-term Rental Registration Late Fee of \$200. Mr. Joseph explained that those are two separate fees that are called on the ordinance. Everything else references the \$100 fee so the fines and fees that we were talking about are on multiples of that \$100. It is either 1 x or 3 x. That \$200 late fee is a separate fee called on the Registration section. You can say it is two times the rental fee but they listed it as \$200. The amounts and penalties are all at the discretion of the Council so it is a political question. Staff has not taken a position on that. Ms. Pelletier wanted to clarify that at one point it said "shall" and at some point it changed to "may" be subject to fines and penalties as set forth. The intent was that we would try to work with people before we hit them with fines. This is under Article 5-E, the third sentence down. Mr. Joseph advised that Councilor Piltch's point is a grace period but the other point being made by Councilor Bradley is a warning period in place of the first violation or in addition before the first violation. He has heard both of these things from the public tonight.

Councilor Piltch explained that it is an incentive to register by July 1 because if you choose to wait until September, it will cost you \$200 instead of the \$100. Councilor Lawrence suggested delaying it to October 1. Mr. Joseph added that the late fee does not apply to first registration cycles. He is talking about F and G.

MOVED AND SECONDED: For Article 5-E after the words failure or refusal to obtain a short-term rental registration; enforcement, he would add *effective September 1, 2021*. (Piltch and Reighley) **ROLL CALL VOTE:** (5 Ayes) (2 Nays-Lawrence & Egan)

Councilor Lawrence suggested using March 1, 2022. Chair Egan would have preferred October 1 or November 1.

MOVED AND SECONDED: To add to 5-E, 5 lines down start the sentence by adding *after an initial warning is issued*, each day that a violation continues shall constitute a separate violation. (Piltch & Reighley)

Councilor Piltch withdrew this motion since legally it is not in the right spot. Councilor Piltch explained that his preference is to say to the Town Manager to not enforce this without issuing warnings first. It is confusing on just where to put it. His preference would be to table this issue since we have until September 1 now to get something in there that we all like rather than try to wordsmith something in a way that has clarity and will pass legal muster seems a little dangerous to do on the fly here. He is happy to commit to getting language back for the Council on this one issue but we don't have to do it tonight.

Councilor Reighley withdrew his second and noted there is no motion on the table now.

Chair Egan agrees that on this particular item is something we do have some time to add and the public record here will show that we are intentionally not adding in this evening because we don't have the language just right and we still have another public hearing to get through this evening.

Councilor Bradley asked if the Council is going to decide on the Board of Appeals issue in 5-D and 5-F?

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Chair Egan advised that the proposed language is that the reports after Codes Enforcement has determined there is further review necessary, it goes to the Town Council and the suggested alternative is that it goes to the Town Manager for consideration. Councilor Bradley added that is correct but any appeal to the Town Manager's decision goes to the Board of Appeals. Chair Egan did not want to introduce a third alternative but prior to it coming to the Council, that is a lot of burden on the Manager and he wonders if there is a committee convened by the Council in lieu of the whole Council? Vice Chair Whitney agrees with that because Mr. Joseph works so hard and she would support anything to lighten his load. Mr. Joseph likes the way it is written where it says Town Council but feels he will not win that one. A 3-person panel would be something he would be willing to serve on along with a member of the public and a Town Councilor. Vice Chair Whitney pointed out that it would still be a lot of work on Mr. Joseph and would satisfy many of the concerns brought up tonight and would really show that the Council is keeping close tabs on this will show that we are working together as a committee. Councilor Daniele suggested the Ordinance Committee because they have intimate knowledge of it. Councilor Piltch is okay with the way it is written that it comes back to the Town Council especially in the first year. He is hoping there will not be a lot of these coming up. Mr. Joseph is totally open to taking the alternate role and would love the idea of changing it if we determine it is not a huge deal. If it proves it is not a huge time burden, he would be glad to take it and he can make a decision in the same way the Council can make that decision. It is a political decision and there is a whole appeal process built in if he is wrong. Councilor Reighley suggested keeping it as it is and highlight it as a review point for the Ordinance Committee at the end of the first year.

Councilor Bradley sees the way a complaint coming forward would be that neighbors in a neighborhood where a short-term rental exists would file enough complaints that the Codes Enforcement Officer would bring them to whomever we decide. As one Councilor he did not run to sit in judgment on complaints by neighbors about anything in the town and he cannot imagine sitting in a session where people bring these complaints forward and we have to decide who is telling the truth in a public hearing with nothing more than that in front of us. He doesn't think we are suited to do that and he does not want to do it and will not vote for it if the Council does it but that is okay. He is just one vote. He feels it is inappropriate for us and the Town Manager no matter how much work he has to do, he is in a position to cut through all the political bologna and figure out what facts are facts and not have to deal with things presented one night in the middle of a very busy season. He thinks the Council should think hard before taking on that responsibility. It just seems wrong to him.

Mr. Joseph noted that he has to sit through the Council's meetings anyway so he is either going to sit by himself and make a decision or he is going to listen to all seven of you listen to it and then make a decision so it still takes up the same amount of his time so there is your answer.

MOVED AND SECONDED: To change the wording in Article 5-D that is highlighted that instead of Town Council we will use the alternative of Town Manager in all places and the alternative that any decision made by the Town Manager shall be appealed to the Board of Appeals using the process outlined in Section 601 of the Zoning Ordinance in Chapter 21. (Bradley & Reighley) **ROLL CALL VOTE:** (6 Ayes) (1 Nay-Egan).

MOVED AND SECONDED: In 5-F we use the alternative wording, instead of Town Council and Board of Appeals to all three locations. (Reighley & Daniele) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

MOVED That Article 4, (h) be removed. (Lawrence) (No second was received)

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Councilor Lawrence noted that we don't require it for any other business in Freeport and Councilor Piltch explained why it is in this proposed ordinance. More discussion followed.

Councilor Lawrence withdrew his motion.

BE IT ORDAINED: That Chapter 61: Short-term Residential Rental Registration Ordinance be enacted as amended. (Piltch & Reighley)

Councilor Bradley advised that this has been a really intense rewriting of something that started for him a couple of months ago and at times it was really hard but he has come to appreciate the process and feels we reached a good result. The reason he can say that is the people in his district that had really strong reviews about teeth and punishing people in short-term rentals really support this version of the ordinance so he feels we did a good job and he is proud to be part of it.

ROLL CALL VOTE: (6 Ayes) (1 Nay-Lawrence)

ITEM # 66-21 To consider action relative to setting a public hearing to discuss proposed amendments to Village Commercial Districts- Freeport Zoning Ordinance.
PUBLIC HEARING

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

Chair Egan noted this is a chance for the public to step forward and make their opinions, views and questions known. He explained how to participate in this public hearing. We had an introduction and explanation of this at our April 6th meeting. He apologized for the late hour of the public participation.

There were no public comments provided.

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

Councilor Reighley asked if there have been any modifications or changes since our last public hearing?

Chair Egan asked the Town Planner to highlight what the purpose is and why the Council is looking at it this evening. She explained that this was initiated by FEDC back in December and identified some barriers to some residential development in the downtown area.

The Council received a letter yesterday from Adam Troidl that serves on the Project Review Board with some concerns about the 45- foot height. We do have Design Review and in some cases the standards of the Freeport Village Overlay District that come into play but some of that is about compatibility and scale. It is great if somebody comes up with a building that is 45 feet and is next to a high building and is compatible. It could create some unique situations if there is a one-story building on either side. The Project Review Board could deem something not compatible and that is something to be aware of. It doesn't change setbacks or any other requirements. They did talk about it but just be aware that Design Review could come into play for some of that. Finally, the additional thing would be adding the Mixed Use Development to all districts. In the Village Commercial I in the heart of downtown, essentially, we say that residential units cannot be on the first floor. They have to be on the upper story. In this case by changing it to Mixed Use Development, they are eliminating the requirement that when you have a

commercial and residential use that the unit can't be on the first floor.

Councilor Bradley asked what the 45 feet allows that is not allowed with 35 feet. What kind of use are we trying to encourage? Ms. Pelletier explained that the goal was to go to three stories and get some flexibility which would allow for additional height to conform to our standards hoping that people could get additional units and make projects more attainable and affordable in the village and allow and encourage residential development on the third floor.

Councilor Pilch advised that he has had a number of conversations around what we are entrusting to the Project Review Board in terms of interpreting a very complex set of ordinances and allow subjectivity which makes their job very difficult but on the other hand in the spirit of saying that if you can get four out of seven reasonable people to agree with a certain development as long as it meets the standards we are trying to enforce then go ahead but they also have the power to deny that despite the fact that we are allowing a third story if they don't deem it compatible with the surrounding buildings. His point is he doesn't think the Council passes this and then we are done. He thinks this highlights the fact that we need to do some work with Project Review and Design Review and simplify and really get those boards together and have some of us provide input to simplify things and make it clearer. He will vote to pass this tonight but doesn't want to imply that we are done with this. He thinks it is the first in a longer process and does not want to hold it up.

BE IT ORDAINED: That the following amendments to the Freeport Zoning Ordinance be enacted:

1) Adding "Mixed Use Development" as a permitted use subject to Site Plan Review in Section 413. Village Commercial "VC-I"; Section 414. Village Commercial II "VC-II"; Section 415. Village Commercial III "VC-III"; and, Section 416. Village Commercial IV "VC-IV".

2) Changing the maximum building height to "up to three stories, with a maximum height of 45 feet" in Section 413. Village Commercial "VC-I"; Section 414. Village Commercial II "VC-II"; and, Section 415. Village Commercial III "VC-III".

3) Changing the minimum land area per dwelling unit requirement to zero in Section 413. Village Commercial "VC-I". (Daniele & Reighley) **ROLL CALL**

VOTE: (7 Ayes) (0 Nays)

Chair Egan explained that the next item is something we have seen at least several times before. It is a continuation of an emergency ordinance change and a relaxation of a bunch of standards. It is a continuation of the Emergency allowance and response to the COVID pandemic that relates to the use of public property and business operations in the downtown. We have approved this at least four times before so it is nothing new.

Mr. Joseph advised that Staff has been discussing this and it is not a decision that needs to be made tonight, but they are throwing it out there that we need to start thinking that these changes should become permanent. The next time around we have two months and this comes up again. If we want to make these changes permanent, we are going to have to start directing Caroline to bring them to the Planning Board for public hearing. He is throwing this out to give the Council something to chew on and think about giving them feedback in the near future.

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ITEM # 67-21 To consider action relative to the reenactment of Freeport Ordinance Chapter 60, Emergency Ordinance: Temporary Suspension of Certain Ordinance Standards to Safely Accommodate Expanded Outdoor Business Activities due to COVID-19 to be effective April 27, 2021 until June 26, 2021, pursuant to the Freeport Town Charter, Section 2.14 “Emergency Ordinance”.

BE IT ORDAINED: That Chapter 60, Emergency Ordinance: Temporary Suspension of Certain Ordinance Standards to Safely Accommodate Expanded Outdoor Business Activities due to COVID-19 to be effective April 27, 2021 until June 26, 2021, pursuant to the Freeport Town Charter, Section 2.14 “Emergency Ordinance” be reenacted without amendments. (Whitney & Reighley) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

WHEREAS, the Governor of the State of Maine declared a Civil State of Emergency due to the spread of the Coronavirus Disease (“COVID-19”) on March 15, 2020, which remains in effect, and

WHEREAS, COVID-19 is a communicable disease that is easily contracted through personal contact with infected individual in the community, and

WHEREAS, the Governor has announced a phased reopening plan intended to reduce the spread of COVID-19, which will likely include restrictions on indoor activities at many of Freeport’s businesses such as shops offices, and restaurants, and

WHEREAS, these businesses may find it beneficial to make temporary changes to their traditional operations to allow outdoor business activities, such as outdoor seating, outdoor sales areas, outdoor meeting areas, and additional outdoor signage to communicate business changes due to COVID-19, and

WHEREAS, the Town of Freeport expects to continue to have a significantly reduced numbers of visitors, which would create a corresponding economic hardship to many of its businesses, and which could be mitigated to some extent by allowing expanded outdoor business activities, and

WHEREAS, expanded outdoor business activities may also help to promote the public health and welfare, by allowing patrons of these businesses to observe social distancing guidelines by avoiding shopping or dining in close proximity to other patrons, and

WHEREAS, there are several sections within Freeport’s municipal ordinances that may prevent, restrict or delay some of these expanded outdoor business activities and modifications – including sections within the Sign Ordinance (Chap. 23), Design Review Ordinance (Chap. 22), Zoning Ordinance (Chap. 21), and Building Code Ordinance (Chap. 11).

WHEREAS, Section 2.14 of the Freeport Town Charter authorizes the Town Council to adopt one or more emergency ordinances to meet a public emergency affecting the life, health, property or the public peace, and

WHEREAS, during this State of Emergency, the Town of Freeport must consider the welfare of its businesses while protecting the health and welfare of its citizens, and

WHEREAS, the temporary suspension of certain ordinance standards and restrictions governing outdoor business activities is immediately necessary to protect the health, safety and welfare of businesses and

their employees, and the patrons of those businesses, in light of the Governor's current phased reopening plans, and

WHEREAS, in light of the foregoing, the Town of Freeport Town Council deems it proper and necessary to temporarily suspend certain provisions of the Town's code of ordinances relating to outdoor business activity for the purposes of allowing businesses to reopen or continue operating without undue hardship while also allowing for compliance with social distancing guidelines.

NOW THEREFORE BE IT ORDAINED:

That for the time period from April 27, 2021 until June 26, 2021, unless this ordinance is repealed by the Town Council prior to April 27, 2021, the following emergency exceptions to established ordinance provisions of the Town of Freeport shall be in effect, and shall apply to any existing business within the Town of Freeport, that is otherwise operating in compliance with all municipal ordinances and regulations in effect.

I. Chapter 23 - Sign Ordinance

- A) Temporary signs to support changes to the operations of business as a result of the COVID-19 pandemic shall be exempt from regulation under Chapter 23. This may also include additional signs needed for distance markers outside of establishments. Internally illuminated signs, signs with moving parts, and flag and/or feather style signs are not exempted from the regulations of Chapter 23. Signs must be located on private property and not project over the public right-of-way; unless permission is otherwise granted from the Town Council. No sign shall exceed 32 sf in size or 25 feet in height.
- B) To be exempted as described in section I (A) above, all signs must obtain a temporary activity permit from the Codes Office/Planning Department.

II. Chapter 21 - Freeport Zoning Ordinance, Section 501 - Temporary Activity

- A) Limits on number and length of outdoor sidewalk or tent sales described in this section shall be suspended for the duration of this Ordinance. In order to be exempted as described above, all merchandise and items used for the outdoor set-up (including but not limited to tables, tents, and retail fixtures) must be brought inside when the business is not open if they cannot be safely secured. This exception also applies to outdoor setups for tourist information centers.
- B) To be exempted as described above, all businesses conducting temporary outdoor sales must obtain a temporary activity permit from the Codes Office/Planning Department. No other land use approvals beyond a temporary activity permit shall be required for these uses.
- C) Section 501(D) shall be replaced with the following language for the duration of time while this ordinance is in effect: "Peddler activities and food trucks during events held by a Freeport business or organization, in compliance with current guidance from the Maine and US Centers for Disease Control, and which are reasonably expected to draw additional visitors to Freeport, are considered a temporary activity subject to the requirements of section 501(A)(2-4), section 526, and section 526A of this ordinance. Said events are not required to obtain a Special Event Permit unless they meet the criteria listed in Freeport Ordinance Chapter 10. Up to four temporary activity permits may be issued under this section per day, and shall be issued on a first-come, first-served basis."

III. Chapter 21 – Freeport Zoning Ordinance, Section 526-A – Food Trucks

- A) Section 526-A (B)(11) shall be replaced with the following language for the duration of time while this ordinance is in effect: “not have any furniture, umbrellas, or other objects or structures outside of the food truck. Generators may be used when the food truck is located on a parcel that does not abut a parcel with a current residential use.”

IV. Chapter 21 - Freeport Zoning Ordinance, Section 602 - Site Plan Review

- A) Temporary modifications to an existing business/educational site required to conduct outdoor business/educational activities will not require an applicant to amend their existing site plan through the formal Site Plan Review process, so long as no new permanent impervious cover is created. Outdoor business activities for the purposes of this section shall include outdoor sales areas and tent sales, outdoor seating for existing restaurants, outdoor seating space for carryout establishments (such as coffee, ice cream, and carryout food), and outdoor meeting space for offices and exercise classes, outdoor space to support classroom educational instruction, along with minimal new lighting as required for safety and ambiance of these activities. The use of any temporary outdoor heating sources to support these modifications must comply with all applicable local and State codes and standards.
- B) Existing businesses/educational facilities may conduct any of the outdoor business/educational activities described in section III(A) above on the property owned by another so long as: 1) the underlying outdoor business activity (restaurant, retail, office, etc.) is allowed in that zone and, 2) the applicant for a temporary activity permit described in section III (C) below shall provide written authorization for any proposed activities from the property owner. Any use of public property (including sidewalks and streets) for outdoor business activities shall require prior approval of the Freeport Town Council.
- C) To be exempted as described above, all businesses/educational facilities conducting temporary outdoor business activities described in section III(A) and III(B) must obtain a temporary activity permit from the Codes Office/Planning Department. No other land use approvals beyond a temporary activity permit shall be required for these uses.
- D) Any outdoor business/educational activities conducted on a site abutting a residential site shall observe all building setbacks as required by the underlying zoning district.
- E) Any tents, awnings, or temporary shelters utilized for purposes described in section III (A) and III (B) shall comply with applicable regulations of the State of Maine Fire Marshall’s Office and the Town of Freeport’s Fire Prevention Code.
- F) The exemptions described in sections III (A) and III (B) shall apply to existing Freeport businesses/educational facilities only. New business locations and/or educational facilities must undergo all applicable land use reviews, including but not limited to site plan review, design review, building permit review, and sign permit review.

V. Chapter 11 - Building Code Ordinance

- A) In the event of any conflict between the Freeport Building Code Ordinance and directives issued under executive order by the Governor regarding the requirement or availability of public restroom facilities, the requirements issued by executive order of the Governor shall prevail.

VI. Chapter 22 - Design Review Ordinance

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- A) A Design Review Certificate shall not be required for any of the temporary outdoor business activities described in Sections I, II, or III of this ordinance, so long as no permanent changes to the site or the building facades are proposed.

ITEM # 68-21 To consider action relative to amending the Town of Freeport Fee Schedule

BE IT ORDERED: That the fee schedule be adopted as amended to add Short Term Residential Rental Registration fee and late fee. (Lawrence & Reighley)

Chair Egan explained that the fee schedule that was included in the Council's packets which adds those particular activities that we thought about extensively.

Councilor Lawrence asked how the \$100 fee was determined? Councilor Reighley explained that it was based on what they discovered with surrounding towns. It is a fair and equitable fee charged in some communities. Some are higher but very fewer are lower. Councilor Piltch added that setting the fee low would incentivize people to say they would rather not register and pay the fine because they can charge \$250 a night. For comparison, Chair Egan pointed out that the Victualer's license is \$135 without alcohol and with alcohol it is \$150 and it is a hospitality related fee structure related to restaurants and folks serving prepared food.

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

ITEM # 69-21 To consider action relative to setting a public hearing for a new Liquor License for Sunrise Café, LLC located at 475 US Route One.

BE IT ORDERED: That a public hearing be set for May 4, 2021 to consider a liquor license request for June and Timothy Chambers d/b/a Sunrise Café, LLC located at 475 US Route One.

BE IT FURTHER ORDERED: That copies be distributed equally between the Town Clerk's Office, the Town Manager's Office and the Freeport Community Library for inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 3 and the Town's website. (Bradley & Reighley)

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

ITEM # 70-21 To consider action relative to a Liquor License Extension for Maine Beer Company, LLC at 525 US Route One.

BE IT ORDERED: That a request for Extension of License on Premise for Maine Beer Company, LLC at 525 US Route One be approved. (Reighley & Lawrence)

Chair Egan mentioned information was included in the Council's packets. Councilor Bradley asked why this does not require a public hearing if the other one did? Mr. Joseph explained that new liquor licenses always require a public hearing but this one is an extension and does not require a public hearing.

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

Chair Egan noted that the next item on the agenda is a big one but the Council has been talking about it for quite a while.

Councilor Daniele suggested moving the discussion forward with Chrissy Adamowicz so she doesn't have to wait until the end of tonight? Chair Egan explained that we generally don't take items of Other Business until we finish voting on all the action items. He does not believe we will spend an hour on this item and the rest of these will be very quick.

ITEM # 71-21 To consider action relative to adopting the FY22 Capital Budget.

BE IT ORDERED: That the proposed Capital Program for FY2022 be approved, as amended. (Daniele & Lawrence)

Chair Egan noted that the Council has been working through its Capital Budget Plan and have had several presentations from our Finance Manager as well as good conversation about all the departments. We have heard from the Manager about different activities and realignments in the Capital Budget. We have made a few minor amendments as it has come through its process but it is before us this evening for adoption. While we already had a public hearing on it on April 6th, we do have one more chance to talk about it. He is not inviting that conversation to be extensive at this late hour but if we do have a chance to talk about this item before we actually adopt it.

Councilor Reighley asked if there were any modifications or changes in this? Chair Egan did not believe there were any since the public hearing. Councilor Reighley noted it will make it go quickly.

Councilor Daniele pointed out that the Manager indicated we would have a 5% increase potentially going forward. He asked what the dollar amount of that is and if we can take anything out of this to reduce that number? Is the 5% a million dollars? Mr. Joseph replied that we are talking about a range of \$200,000-\$250,000. He mentioned the Council could use reserve funds or transfer things to offset the General Fund. While he does not recommend that, the Council could do that. Anything that the Council would cut out of the Capital Program would automatically make more money available for the General Fund. Ms. Maloy believed he was correct. Mr. Joseph asked the Council to keep in mind that everything that is in this Capital Program they vote on again at the end of the Operating Budget. What we are voting on tonight is the Capital Program, the five-year planning document. Year One of the Capital Program goes on the Council's agenda for the second meeting in June to be approved as the first of next year's Capital Budget. If the Council looks through that document for the Capital Program, all of the Year One lines in each of those different funds get appropriated by the Council and that will be the proposal in front of you in June.

Councilor Bradley asked if the Council has a great concern about the increase in the budget, is there a time later on in the process we could talk about reducing the amount we are putting in reserve could offset that tax increase? Mr. Joseph replied, yes, the Council would want to talk about that as part of the revenue discussion during the Operating Budget discussion so the Council would want to say, transfer in from this fund or this fund into the General Fund in next year's budget to offset the expenditures. It is part of the normal process for the Council to go through. There is an amount in there to use Fund Balance to offset taxes so that is one typical source of how we would do that. Councilor Bradley asked if in the first instance, would that be a recommendation Mr. Joseph would consider making? Mr. Joseph noted yes, there is Fund Balance used in the budget right now.

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Councilor Lawrence asked if the 5% is in a year? Mr. Joseph advised that the 5% number does not have anything to do with the Capital Program in front of the Council. Even if the Council went to 0% on the Operating Budget, the 4% from the RSU goes down to 3%. He suggested that the Council keep in mind that we average all three of the different governmental units.

Chair Egan clarified that those percentage are predicted budget increases so 5% from one budget and 3% from another are not the same when they are a percentage of a totally different sized budget. Keep in mind that our overall budget for the taxpayers in the community is made up of the County, the RSU and our Operating Budget. Ms. Maloy explained the percent of those ratios that make up the mil rate: the Town is 22%, the RSU makes up 74% and the County is like 5%. Chair Egan noted they are not directly comparable but we will have a good illustration of that when we get to adopting the full budget for the next fiscal year which is the last item remaining for discussion which is the Operating Budget for Town Government. The item in front of us right now is the Capital Program which includes the predicted expenses for Capital Improvements for the next five years as well as the Capital Expenditures proposed for the fiscal year coming in 2022.

To more accurately answer Councilor Bradley's question, he thinks a good way to think about it is if there is a crisis that happens in between when the Council adopts this document and say these are our priorities for next year and then what happened last year, COVID happened. If there is a change and a bridge collapses and we need to spend \$4M to replace a bridge we were not planning on, the Council is not committing to anything by adopting this document other than saying this is our plan for the next five years of what we are going to put in. When the Council takes the vote in June on the actual appropriation for the next year's Capital budget, that is when you are making the decision to spend that money. If something happens in the next two months that totally changes our priorities, we could scrap everything in this plan and say instead of spending on all these different items, we are going to \$1.2M on this one project we need to fix. That is a decision that could be made by the Council at any point.

Councilor Bradley mentioned that it is no secret that he is very interested in the TIF request. As part of this process coming forward to this meeting people have written some compelling statements in support of the TIF and he doesn't want to read them all now. He asked if he could make them part of this record? Chair Egan suggested that he submit them to Sharon and they could be made a part of the meeting since those comments were submitted in reference to this item. Mr. Joseph advised that if Councilor Bradley has electronic versions, they could be posted with the meeting materials for this meeting on the website. Councilor Bradley noted he would do that.

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

Chair Egan thanked the Manager and the Finance Director for putting all that work together. It was well thought out and we will be able to cover it by reserves.

ITEM # 72-21

To consider action relative to the annual appointment of Nicholas Adams as Freeport Code Enforcement Officer, Electrical Inspector, Plumbing Inspector and Building Inspector.

BE IT ORDERED: That the annual appointment of Nicholas Adams as Freeport Code Enforcement Officer, Electrical Inspector and Plumbing Inspector effective through June 30, 2022 be confirmed.

BE IT FURTHER ORDERED: That the annual appointment of Nicholas Adams as Freeport Building Inspector effective through April 30, 2022 be confirmed. (Whitney & Reighley)

Chair Egan advised that this is an ordinary function and our Charter requires that our Code Officer be appointed as those specific listings. Mr. Joseph added that it does not require that he be appointed as those things. We could appoint somebody else to do those things if there was somebody else that could do the plumbing and electrical jobs. Councilor Bradley asked if this is a time in which members of the Council would discuss performance or is it just a function vote. Mr. Joseph would suggest that those things be discussed in Executive Session with the employee present if there is a reason to discuss them or talk with him.

ROLL CALL VOTE: (7 Ayes)

ITEM # 73-21 To consider action relative to amending the Town Council meeting schedule.

BE IT ORDERED: That the meeting schedule be amended by rescheduling the April 27th District Workshop to October 5, 2021. (Piltch & Lawrence)

Chair Egan noted that we did not specify which district is covered by this. Mr. Joseph advised that the Council can make that decision. There are two in the fall. Chair Egan suggesting setting the Workshop on October 5th and designating it for District 3 and 4.

BE IT ORDERED: That the meeting schedule be amended by rescheduling the April 27th District Workshop to October 5, 2021 and make that a District 3 and 4 Workshop. In addition, the District Workshop scheduled for September 21st shall be a District 1 and 2 Workshop. (Piltch & Lawrence)

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

BE IT ORDERED: That the meeting schedule be amended by rescheduling the April 27th District Workshop to October 5, 2021 and make that a District 3 and 4 Workshop. In addition, the meeting scheduled for September 21st shall be a District 1 and 2 Workshop. (Piltch & Reighley)

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

Mr. Joseph explained that the warrant has been approved but the Council is calling the Election for the School District.

Councilor Bradley asked if this is another function vote for the Council? Mr. Joseph advised that it is procedural only. They send out the warrant to all three towns and then it is the responsibility of the Boards in each of the three towns to endorse the warrant. Chair Egan mentioned in previous years when we were not having a pandemic, there was an inter meeting between the posting of this warrant and final approval of it. It was called a Budget Validation meeting which was held in person and all members of the three towns in the RSU could participate and make amendments to the budget and frequently there often were amendments made so the numbers being seen this evening were often changed although the School Board was not obligated to follow those amendments but they often did. This year there is no Budget Validation meeting because of the pandemic but they are holding a series of public hearings

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for input. This is the presentation of the numbers the School Board has elected for the operation of the RSU5. We don't technically vote until June 8th as a community on adopting these numbers as the School Budget but we are recommending this warrant going forward to be what is in front of the voters on June 8th. Mr. Joseph added that the Council is not recommending the content but you are recommending that this is what the School Board sent out. These are the questions they are putting before the voters.

ITEM # 74-21 To consider action relative to signing the RSU5 Budget Validation Election Warrant for June 8, 2021.

BE IT ORDERED: That the RSU5 Budget Validation Election Warrant be signed. (Daniele & Reighley) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Discussion with Chrissy Adamowicz from Natural Resources Council of Maine in regards to Extended Producer Responsibility proposal (Council Chair Egan

Chair Egan appreciated Ms. Adamowicz's patience in sticking with us at this late hour.

Ms. Adamowicz's screen shared a PowerPoint presentation on Recycling Reform. She discussed the challenges being faced and their policies. She hopes Freeport will show its support. 26 towns have showed their support. Members of the public can also sign their petition.

Chair Egan mentioned the Council has a meeting scheduled next week on May 4th and if there was going to be a vote of this Council to support this, would it be in time for Ms. Adamowicz to include it in her presentation at the May 10th hearing. She replied that it would be in time and she could make it happen. Chair Egan noted in her presentation she talked about how the EPR Law would work which includes a focus on recycling activity. Freeport does not have a town-wide Municipal trash service. By Charter we actually have private companies provide trash pick-up and, in some cases, one of the providers will pick up recycling as well. We've had a conversation here about potentially having curbside recycling across the community. Would curbside recycling be a requirement for Freeport to participate in the reimbursement? Would we have to have 100% of our community participating. Ms. Adamowicz advised that Freeport would not have to have 100% community participation but you would have to offer the recycling service to the community. There is a difference between participating and offering. Chair Egan asked if it would have to be at curbside and not at collection points around the town? She did not think it had to be curbside. Chair Egan noted this is a hot wire issue that immediately puts people far apart on the issue. He is hoping we can find a way to participate in this but not necessarily setting up something.

Councilor Reighley noted he used to have a retail store and when things came in, he unpacked and put things away. Now people shop on line and packaging is increased many fold because it is an individual item being shipped where he was buying in 12s. He believes one of the ways we can improve on our recycling and also have the cost be directed to the right area is to set a fee or a fine that the on-line shopper has to pay for. Ms. Adamowicz agreed that it is true with the increase in packaging and perhaps the fee structure could be set up for the brand. Councilor Reighley would support this at our next meeting.

Councilor Bradley noted it almost seems to be too good to be true. It doesn't cost the consumer anything and the price of this is not passed on. The Municipality gets all the money and recycling goes to the right places. What do the critics of this program say when they have seen what is being proposed? Ms.

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Adamowicz advised that the Town will have to do some work to collect the data if they are not doing it already and offer the recycling services. The packaging companies are saying they don't know how to do this but other countries are saying they do it for them. Their testimony has been quite weak. She thinks that the concern comes from the medium sized businesses in Maine. She really believes this is the way to do it because recycling starts at the design stage so they can be less wasteful. Those are some of the things she hears the most.

Councilor Bradley asked if L.L. Bean has taken a position on this? Ms. Adamowicz advised that they did not take a position last year and they have not heard from them this year. She listed the businesses that have signed on already recognizing the impact they have on this issue.

Chair Egan thanked Ms. Adamowicz for her very thorough presentation. He will have a conversation with the Vice Chair and the Manager to see if they can get this endorsed. He is particularly interested in seeing it happen and if we are going to try to do something, we might as well try to do it prior to the May 10th public hearing in front of the Legislature which is why they are asking us to join in to endorse that. We are not agreeing to adopt this for Freeport next week. We would be agreeing to support their lobbying effort to get the State to pass a State Law.

MOVED AND SECONDED: To adjourn at 10:59 p.m. (Reighley & Lawrence)
ROLL CALL VOTE: (7 Ayes) (0 Nays)

Respectfully submitted,

Sharon Coffin, Council Secretary