

Clerk

TOWN COUNCIL MEETING #12-2002

MAY 21, 2002 - 7:00 P.M.

TOWN COUNCIL CHAMBERS

SUMMARY AGENDA

ITEM #93-2002 To consider action relative to adopting the May 21, 2002 Consent Agenda.

ITEM #94-2002 To consider action relative to adopting an Operating Budget for Fiscal Year 2003. (Public Hearing).

ITEM #95-2002 To consider action relative to adopting new fees or fee increases for Fiscal Year 2003. (Public Hearing).

ITEM #96-2002 To consider action relative to the proposed discontinuance of a portion of Holbrook Street. (Public Hearing).

ITEM #58-2002 Approved April 9, 2002 – reconsideration.

To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure (Chapter 31).

OTHER BUSINESS:

Adjourn.



AGENDA
FREEPORT TOWN COUNCIL MEETING #12-2002
TOWN HALL COUNCIL CHAMBERS
MAY 21, 2002 – 7:00 P.M.

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

FROM: Dale C. Olmstead, Jr.

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

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of Meeting #11-2002, held on May 7, 2002 and accept the Minutes as printed.

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

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

**COUNCIL MEETING #12-2002
MAY 21, 2002**

ITEM #93-2002 To consider action relative to adopting the May 21, 2002 Consent Agenda.

BE IT ORDERED: That the May 21, 2002 Consent Agenda be adopted.

ITEM #94-2002 To consider action relative to adopting an Operating Budget for Fiscal Year 2003. (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That Item #94-2002 be tabled until May 28, 2002.

ITEM #95-2002 To consider action relative to adopting new fee or fee increases for Fiscal Year 2003. (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed fee increases and new fees be approved.

ITEM #96-2002 To consider action relative to the proposed discontinuance of a portion of Holbrook Street. (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, the Town of Freeport, Maine does hereby discontinue and retain a public easement on that portion of the way known as Holbrook Street which is bounded and described as follows:

A certain portion of Holbrook Street in the Town of Freeport, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the assumed southwesterly sideline of Holbrook Street, which point is situated N 50° 24' 55" E a distance of 8.25 feet from a 5/8" iron rod set at the northernmost corner of Academy Pines Condos as shown on "Standard Boundary Survey on Holbrook Street, Freeport, Maine made for Deluca-Hoffman Assoc., Inc. March 17, 2002 Owen Haskell Inc.";

Thence, N 39° 35' 05" W along the southwesterly sideline of Holbrook Street 304.36 feet to the end of Holbrook Street;

Thence, N 50° 24' 55" E along the end of Holbrook Street 49.50 feet;

Thence, S 39° 35' 05" E along the northeasterly sideline of Holbrook Street 304.36 feet;

Thence, S 50° 24' 55" W across Holbrook Street 49.50 feet to the point of beginning.

Said portion of Holbrook Street is a portion of the street as accepted at the Annual Town Meeting of March 13, 1961 and described on page 214 of the Freeport Road Book.

BE IT FURTHER ORDERED: That no damages are awarded to any person by reason of this discontinuance of said portion of said way, and

BE IT FURTHER ORDERED: That a public easement is retained for all purposes provided in Chapter 304 of Title 23 of the Maine Revised Statutes and for the purpose of maintaining a driveway and emergency access-way within the location of the discontinued way.

ITEM #58-2002 Approved April 9, 2002 - reconsideration.

To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure (Chapter 31).

BE IT FURTHER ORDERED: That the amendment to the Coastal Waters Ordinance approved on April 9, 2002 be amended as follows:

CHAPTER 31

Article V.5. Fees

In addition to the following user fees, a registration fee of \$20.00 and a \$1.00 (one dollar) per foot of boat length over all fee (LOA) shall be paid for all boats on moorings and slips in the anchorage of the Town of Freeport. Slips located in the anchorage shall be charged a registration fee of 20 twenty dollars (\$20.00) per slip. All persons who receive a mooring assignment in the anchorage must pay to the Town of Freeport a mooring permit fee for each mooring received, in accordance with the following schedule.

NOTE: This item was requested by Councilor Arsenault.

OTHER BUSINESS:

Adjourn.

AMENDED*

**TOWN COUNCIL
CONSENT AGENDA
MAY 21, 2002**

ITEM #87-2002 To consider action relative to the approval Victualers licenses.

BE IT ORDERED: That the following application for Victualers Licenses be approved:

William Joynt d/b/a Ben & Jerry's, 83 Main Street
Loretta & Alan Bradley d/b/a Capt. Josiah Mitchell House B&B, 188 Main St.
F. Carolyn Dobson d/b/a Desert of Maine, 95 Desert Road
John & Karen Nappi d/b/a Bow Street Market, Inc., 79 Bow Street
John L. Stiles d/b/a Jameson Tavern Restaurant, 115 Main Street
Nancy D. Gray d/b/a Harraseeket Inn, 162 Main Street
John P. Lewis d/b/a Blue Onion Restaurant, 193 Lower Main Street
Beth Finlayson d/b/a Rotary Hot Dog Stand, L.L. Bean Parking Lot Morse Street
Steve Goble d/b/a McDonald's Restaurant, 11 Mallet Drive
Tamantha J. Wilson d/b/a Harraseeket Grange #9, 13 Elm Street
Gerald Clements d/b/a Sam's Italian Foods, 7 Main Street
Bob Pottle d/b/a Cindy's Fish & Fries, 292 U.S. Route 1
Michael Marino d/b/a The Lobster Cooker, 39 Main Street
Loren Goodridge d/b/a Subway, 475 U.S. Route 1
Thomas Ring d/b/a Atlantic Seal B&B, 25 Main Street
Lewis Corliss d/b/a The Village Inn, 186 Main Street
Larry Greenlaw d/b/a Isabella's Sticky Buns Café Bakery, 2 School Street
*David & John Coffin d/b/a Harraseeket Lunch, 36 Main Street, So. Freeport
Kathryn Kenny d/b/a Sausage Express, 45 Main Street
Jonas & N. Kate Werner d/b/a Mermaid's Tale Seafood Café, 123 Main Street
Andy & Diane Terpstra d/b/a Dutch Lighthouse Motel, 525 U.S. Route 1

ITEM #88-2002 To consider action relative to approving a Summer Meeting Schedule for the Town Council.

BE IT ORDERED: That the proposed 2002 Summer Meeting Schedule for the Town Council be approved.

ITEM #89-2002 To consider action relative to the approval of a Liquor License.

BE IT ORDERED: That the following application for a Malt, Vinous Liquor License be approved.

Echelon Management, Inc. d/b/a Mermaid's Tale Seafood Café, 123 Main Street

ITEM #90-2002 To consider action relative to appointments of delegates to GPCOG General Assembly

BE IT ORDERED: That Genie Beaulieu and Bob Stevens be appointed to serve as delegates to GPCOG's General Assembly to be held on June 18, 2002.

ITEM #91-2002 To consider action relative to accepting a \$10,000.00 grant from the Davis Conservation Foundation.

BE IT ORDERED: That a grant in the amount of \$10,000.00 from the Davis Conservation Foundation to provide funding for the purchase of the Keith Property be accepted.

ITEM #92-2002 To consider action relative to accepting a bid for a backhoe replacement.

BE IT ORDERED: That the bid from Nortrax of Westbrook, Maine in the amount of \$43,750, which includes trade-in, be accepted.

End of Consent Agenda

**MINUTES
COUNCIL MEETING #12-2002
FREEPORT TOWN HALL COUNCIL CHAMBERS
May 21, 2002—7:00 P.M.**

CHAIRPERSON'S CALL TO ORDER

Present

Absent

Excused

Robert Stevens, Chairperson
Porters Landing

x

John Arsenault, Vice Chairperson
Prout Road

x

David Soley
Arnold Road

x

Susan Campbell
Hunter Road

x

Rod Regier
South Freeport Road

x

Kenneth Mann
Mann Road

x (late)

Eileen Lowell
South Freeport Road

x

Vice Chair Arsenault called the meeting to order at 7 p.m. and noted that Chair Stevens is excused and Councilor Mann will be arriving shortly.

FIRST ORDER OF BUSINESS: TO WAIVE THE READING OF THE MINUTES OF MEETING #11-2002 HELD ON MAY 7, 2002 AND ACCEPT THE MINUTES AS PRINTED.

MOVED AND SECONDED: TO WAIVE THE READING OF THE MINUTES OF MEETING #11-2002 HELD ON MAY 7, 2002 AND ACCEPT THE MINUTES AS PRINTED. (Councilors Regier & Soley) (5 Ayes) (2 Excused—Mann & Soley)

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

MOVED AND SECONDED: To open the Public Comment Period (Soley & Campbell) (6 Ayes) (1 Excused—Stevens)

There were none.

COUNCIL MEETING #12-2002
MAY 21, 2002

MOVED AND SECONDED: To close the Public Comment Period (Soley & Campbell)
(6 Ayes) (1 Excused—Stevens)

ITEM #93-2002 To consider action relative to adopting the May 21, 2002 Consent Agenda.

BE IT ORDERED: That the May 21, 2002 Consent Agenda be adopted (Councilors Soley & Campbell)

Councilor Soley pointed out that he will be unable to attend the last meeting in August. Councilor Mann noted that he may want to attend the General Assembly of COG

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

ITEM #94-2002 To consider action relative to adopting an Operating Budget for Fiscal Year 2003. (Public Hearing).

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

Pat Gile, Chair of the Freeport Elders, distributed their operating budget for Fiscal 2001/2002 and asked for support of their request for \$5,000. Liz Standen asked the Council to support this year's School Budget. Joe Migliaccio had questions about the school budget and shared his views. Barbara McPheter asked for clarification on Page 38 of her packet and Mr. Olmstead explained what happened.

Councilor Mann had questions for Mr. Plummer on paving Forest Street. Mr. Plummer explained that he could patch it this year but it will become a capital project in three years. Mr. Olmstead noted that the Council could move it up if it chooses to. Discussion followed.

Carol Hudson and Deb Pinkham urged the Council to support the proposed school budget. Discussion followed.

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

BE IT ORDERED: That Item #94-2002 be tabled until May 28, 2002. (Councilors Campbell & Regier) **ROLL CALL VOTE:** (6 Ayes) (1 Excused—Stevens)

ITEM #95-2002 To consider action relative to adopting new fee or fee increases for Fiscal Year 2003. (Public Hearing).

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

Mr. Olmstead explained the proposed fee increases that could potentially raise an additional \$30,000. He noted that the Library has already raised its fees. The Police Chief answered questions for the Council.

Councilor Regier pointed out that in Chapter 14 of the Alarm Systems Ordinance, Article III Transmittal of Non-Emergency Alarms, in the final paragraph a verb is needed. Something was lost. He suggested adding after the words "In the case of the Fire Department," *the fees shall be*. Other Councilors concurred. Mr. Olmstead offered to make sure that whatever was left out, will be reinserted.

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

BE IT ORDERED: That the proposed fee increases and new fees be approved.(Councilors Regier & Soley) **ROLL CALL VOTE**: (6 Ayes) (1 Excused—Stevens)

ITEM #96-2002 To consider action relative to the proposed discontinuance of a portion of Holbrook Street. (Public Hearing).

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

Superintendent of Schools, Bob Lyman explained the issue that has arisen. Jack Maier of 39 Elm Street shared his safety concerns for the neighborhood with the illegal parking that takes place on the Snow Road. He suggested that a traffic study be done. He also would like restrictions and guarantees applied so that the roadway will be kept open for emergency access during construction of the auditorium. Councilor Regier shared his views and added that the Planning Board can deal with these issues easily. Councilor Mann shared his views and also distributed some information explaining town ways, public easements and private ways. Discussion followed. Rodney Curtis of Oak Avenue had questions for Mr. Lyman. Chief Scofield answered questions about parking issues. Barbara McPheter shared her concerns for a door from the school egressing right out into a public easement/right-of-way and is worried that the Town is setting a precedent that shows that it does not need to meet its own requirements. Mr. Reeder, Codes Officer, clarified some of the issues that were mentioned. Councilor Campbell asked Mr. Reeder if he would allow this situation to go forward if it was L.L. Bean requesting it. Mr. Reeder advised that he would because this changes nothing.

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

BE IT ORDERED: That pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, the Town of Freeport, Maine does hereby discontinue and retain a public easement on that portion of the way known as Holbrook Street which is bounded and described as follows:

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BE IT FURTHER ORDERED: That no damages are awarded to any person by reason of this discontinuance of said portion of said way, and

BE IT FURTHER ORDERED: That a public easement is retained for all purposes provided in Chapter 304 of Title 23 of the Maine Revised Statutes and for the purpose of maintaining a driveway and emergency access-way within the location of the discontinued way. (Councilors Mann & Regier)

MOVED AND SECONDED: To delete the words in the **BE IT FURTHER ORDERED:** after Maine Revised Statutes: "and for the purpose of maintaining a driveway and emergency access way within the location of the discontinued way" (Councilors Mann & Campbell)
VOICE VOTE: 2 Ayes (Campbell & Mann) (4 Nays) (1 Excused—Stevens)

ROLL CALL VOTE: (4 Ayes) (2 Nays—Campbell & Mann) (1 Excused—Stevens)

ITEM #58-2002 Approved April 9, 2002 – reconsideration.

To consider action relative to proposed amendments to the Coastal Waters Ordinance concerning the Fee Structure (Chapter 31).

BE IT FURTHER ORDERED: That the amendment to the Coastal Waters Ordinance approved on April 9, 2002 be amended as follows:

CHAPTER 31

Article V.5. Fees

In addition to the following user fees, a registration fee of \$20.00 and a \$1.00 (one dollar) per foot of boat length over all fee (LOA) shall be paid for all boats on moorings in the anchorage of the Town of Freeport. Slips located in the anchorage shall be charged a registration fee of 20 twenty dollars (\$20.00) per slip. All persons who receive a mooring assignment in the anchorage must pay to the Town of Freeport a mooring permit fee for each mooring received, in accordance with the following schedule.

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

Mr. Olmstead explained this proposal and discussion followed.

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

OTHER BUSINESS:

Councilor Arsenault asked if Councilors feel there is a need for a workshop before they vote. It was decided that they would hold a workshop next Tuesday beginning at 5:30 p.m. Sandwiches will be provided. There are some outstanding issues such as Clean-Up Week, adding in a Town Engineer position, Household Hazardous Waste Disposal w/Yarmouth (approximately \$6,000). Mr. Olmstead suggested reducing the Brown tail Moth Spray program by \$18,000 to help fund clean-up week.

Mr. Olmstead asked for clarification on these issues so that he will know whether to build them in or out. He asked Vice Chair Arsenault to poll the Council for consensus.

Clean-Up Week (5 Ayes/1 Nay)
Town Engineer Position (4 Ayes/2 Nays)
Household Hazardous Waste Disposal (4 Ayes/2 Nays)

Councilors concurred that if there are any amendments, they would like them in their packets before the workshop. Councilor Regier and Mann explained the proposals they are considering. Councilor Soley advised that he would like everyone's proposals before the workshop.

Councilor Campbell had questions about the NET budget. Mr. Olmstead mentioned that Hedy and Paul will have answers for her tomorrow.

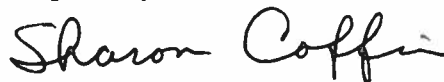
Mr. Olmstead commended Councilor Regier for the amount of work he has put into the budget. He also commended Councilor Arsenault for all his work.

Councilor Mann explained that he may propose a No Dogs Allowed In Cemeteries Ordinance at some point and distributed a copy of Portland's Ordinance for Councilors to read. He asked Councilors to give this issue some thought.

Adjournment

MOVED AND SECONDED: To adjourn at 10 p.m. (Councilors Soley & Campbell)
(6 Ayes) (1 Excused—Stevens)..

Respectfully Submitted,



Sharon Coffin
Council Secretary

FREEPORT TOWN COUNCIL
SUMMER MEETING SCHEDULE 2002

June 11

June 25

July 16

August 6

August 20

September 3

September 17



May 6, 2002

Mr. Dale Olmstead
Freeport Town Manager
30 Main Street
Freeport, ME 04032

Dear Dale,

The annual meeting of the GPCOG General Assembly is scheduled for Tuesday, June 18th. This year the business meeting will be held at the DoubleTree Hotel, followed by a *SeaDogs game and picnic*. You'll be receiving more details in the coming weeks.

We are currently in the process of updating our list of General Assembly delegates and we need the names of your community's two representatives. According to the GPCOG bylaws:

At least one (1) representative for each municipality shall be a municipal officer. The other representative(s) shall be either a municipal officer or a designee elected by a majority vote of the municipal officers. "Municipal officer" is defined as the selectmen or members of the town council for a town, or the mayor and city councilors of a city.

Last year's delegates were:

John Arsenault
David Soley

Feel free to make your changes directly on this letter and fax it back to Maddy at 774-7149 or e-mail madams@gpcog.eddmaine.org. Could you please also provide us with an up-to-date listing of your Councilors. Thank you very much for your assistance.

Sincerely,


Neal W. Allen
Executive Director



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2
3

SEAWARD

Management Corporation

10 Post Office Square
Suite 1050
Boston, Massachusetts 02109

Telephone: 617 426 1196
Fax: 617 426 1694
seaward@seawardmgmt.com

May 9, 2002

Mr. Dale Olmstead, Town Manager
Town of Freeport
Freeport Town Hall
30 Main Street
Freeport, ME 04032

Dear Mr. Olmstead:

Enclosed please find a check in the amount of \$10,000.00 made payable to the Freeport Conservation Commission for the land acquisition at Hedgehog Mountain. This disbursement is a grant from the Davis Conservation Foundation per vote of the Trustees.

Would you please acknowledge receipt of this check by signing and returning to me the copy of this letter in the stamped, pre-addressed envelope?

If you have any questions, please do not hesitate to call.

Yours sincerely,



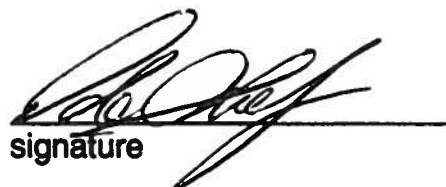
Ellen Toli
Operations Manager

Enclosures

cc: Ms. Nancy Winslow
Davis Conservation Foundation
Four Fundy Road
Falmouth, ME 04105

Ms. Mary Sauer
14 Harvey Brook Drive
Freeport, ME 04032

May 14, 02
date


signature



Town of Freeport Loader Back Hoe Bid

May 14, 2002

10:00 a.m.

Freeport Town Hall

PRESENT: Mike Pratt, Beauregard Equipment
Dave Treundy, RC Hazelton Co., Inc.
John Paradis, Nortrax
Judy Hawley, Administrative Assistant
Johanna Hanselman, General Assistance Administrator

Three Bids were received and opened at 10:00 a.m.

- 1. Nortrax, Westbrook, Maine**
List Price: \$78,750.00
Trade-In (John Deere): (\$35,000.00)
TOTAL: \$43,750.00

- 2. Beauregard Equipment, Scarborough, Maine**
List Price: \$84,555.00
Trade-In: (\$25,000.00)
Municipal Discount: (\$8,500.00)
TOTAL \$51,055.00

- 3. RC Hazelton Co., Inc., Cumberland, Maine**
List Price: \$98,500.00
Trade-In & Municipal Disc.: (\$52,279.00)
TOTAL: \$46,221.00

Bids were closed.

Recorded by:


Johanna Hanselman

**FREEPORT ELDERS ASSOCIATION
BUDGET FISCAL 2001/2002**

<u>INCOME:</u>	<u>BUDGET</u>	<u>ACTUAL</u>	<u>YTD</u>	<u>DIFFERENCE</u>
<u>Community Support</u>				
Town of Freeport	5000.00			
Hose Tower	2000.00			
Miscellaneous	2000.00			
<u>Fundraising</u>				
Pancake Breakfast	2100.00			
Attic Sale	500.00			
Crafts	1300.00			
Raffles	500.00			
Public Dinner	900.00			
Returnables	70.00			
Miscellaneous	200.00			
<u>Newsletter Advertising</u>	1000.00			
<u>Elder Bus</u>				
Advertisements	1000.00			
Trip Donations	600.00			
Miscellaneous	180.00			
<u>Fitness Participants</u>	2600.00			
<u>Member Support</u>				
Appeal	3000.00			
Pennies	100.00			
Miscellaneous	750.00			
In-Kind	3250.00			
<u>Total Income w/ In-Kind</u>	<u>27050.00</u>			
<u>Total Income w/o In-Kind</u>	<u>23800.00</u>			
<u>EXPENSES:</u>				
<u>Administrative</u>				
Equipment Repairs	300.00			
Office Supplies	612.00			
Insurance	500.00			
Legal	100.00			
Mail/Permit	300.00			
Grant Writing	500.00			
Administrative Assistant Wages	6240.00			
<u>Center</u>				
Rent	2400.00			
Electric	600.00			
Telephone, Internet, Long Distance	900.00			
Plowing	300.00			
Miscellaneous	180.00			
<u>Fitness Instructor</u>	3700.00			
<u>Miscellaneous</u>	600.00			
<u>Newsletter</u>				
Printing	2000.00			
Mailing	800.00			
<u>Committees</u>				
Hospitality	200.00			
Membership	200.00			
Publicity	150.00			
Crafts	150.00			
Pancake Breakfast	600.00			
Public Dinner	200.00			
Programs	100.00			
<u>Special Events</u>				
Recognition	300.00			
Annual Meeting	400.00			
Christmas Party	550.00			
<u>Elder Bus</u>				
Insurance	1350.00			
Gas/Tolls	600.00			
Cell Phone	190.00			
Maintenance	2000.00			
Registration	28.00			
<u>Total Expenses</u>	<u>27050.00</u>			
<u>GAIN/(LOSS)</u>				

27050.00
- 33800.00
= 3350.00

Highway Purposes: "Highway purposes" as defined in 23 M.R.S.A. Section 3021(1) means use as a "town way" and those things incidental to the laying out, construction, improvement, maintenance, change of location, alignment and drainage of town ways including the securing of materials therefor; provision for the health, welfare and safety of the public using town ways; provision for parking places, rest places and preservation of scenic beauty along town ways.

Town Way: A "town way" is defined in 23 M.R.S.A. Section 3021(3) as "...an area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle" (emphasis added). The term includes town and county ways that were not discontinued or abandoned prior to July 29, 1976 and state or state aid highways classified as town ways as of July 1, 1982. A Town's authority to lay out "town ways" is set forth in 23 M.R.S.A. Section 3022.

Public Easement: A "public easement" is defined in 23 M.R.S.A. Section 3021(2) as "...an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way and includes all rights enjoyed by the public with respect to private ways created by statute prior to the effective date of this Act. Private ways created pursuant to Sections 3001 and 3004 [of Title 23, now repealed] prior to the effective date of this Act [July 29, 1976] are public easements." A Town's authority to lay out "public easements" is set forth in 23 M.R.S.A. Section 3022.

Private Way: In any discussion relating to local highway law, the term "private way" generates the most confusion. Prior to July 29, 1976, the Maine statutes governing local highways drew a distinction between a "town way" that was laid out by the town officials and paid for and maintained at public expense and a "private way" that was laid out by the town officials at the request of private landowners to connect their improved lands to the public highway system. Such "private ways" were constructed and maintained by the private landowners and not at the expense of the town. See Browne v. Connor, 138 Me. 63, 21 A 2d 709 (1941) for a general explanation of "private ways." The Supreme Judicial Court determined that "private ways" laid out by the town officials were for the benefit and use of members of the public in the same manner as "town ways," were part of the public highway system, and were subject to a "public easement." Although the town officials might permit a "private way" to be subject to "gates and bars,"



Approved
PROPOSED AMENDMENTS TO THE COASTAL WATERS ORDINANCE

CHAPTER 31

ARTICLE V MOORING ASSIGNMENTS

5. Fees: In addition to the following ^{user} fees, a ~~User fee of \$20.00~~, a registration fee of \$20.00 and a \$ (one dollar) per foot of boat length over all fee (LOA) shall be paid for all boats on moorings and slips in the anchorage of the Town of Freeport. All persons who receive a mooring assignment in the anchorage must pay to the town of Freeport a mooring permit registration fee for each mooring received, in accordance with the following schedule.

All moorings within the coastal waters of the Town of Freeport but not in the anchorage, must be registered with the Harbor Master and must include the information in ARTICLE V section 3 of this ordinance and the owner must pay a \$20 yearly registration fee to the Town of Freeport on or before March 31 of each year.

All skiffs/dinghies on the town floats must be registered with the Town of Freeport each season and the owner must pay a \$50 yearly fee to the Town of Freeport on or before March 31 of each year.

All users: including but not limited to lobstermen, clammers, mussel gatherers, fuel deliverers, mooring contractors, construction contractors, trash haulers, boat/canoe/kayak rental services, individuals stepping or unstepping masts, of the wharves, docks, hoist, or electricity must pay a \$50 yearly Wharfage fee to the Town of Freeport on or before March 31 of each year.

