

**MINUTES  
AGENDA**

**FREEPORT TOWN COUNCIL MEETING #15-2004  
TOWN HALL COUNCIL CHAMBERS  
September 7, 2004 – 7:00 P.M.**

**CHAIRPERSON'S CALL TO ORDER**

**PRESENT   ABSENT   EXCUSED**

Rod Regier, South Street	x
Thomas Rumpf, P.O. Box 819, S. Freeport	x
John Arsenault, Prout Road	x
Charlotte Bishop, Maquoit Drive	x
Rich DeGrandpre, Timber Ridge Road	x
Frederick White, 45 Pleasant Hill Road	x
James Cassida, 5 Timber Ridge Road	x

Chair Regier called the meeting to order at 7 p.m.

**FIRST ORDER OF BUSINESS:**      To waive the reading of the Minutes of Meeting #14-2004 held on August 10, 2004 and accept the Minutes as printed.

Chair Regier pointed out that the meeting began at 6 p.m. not 7 p.m.

**MOVED AND SECONDED:** To waive the reading of the Minutes of Meeting #14-2004 held on August 10, 2004 and accept the Minutes as amended.  
(White & Bishop) **VOTE:** (7 Ayes)

**SECOND ORDER OF BUSINESS:** Announcements

Chair Regier pointed out that nomination papers are available for anyone interested in seeking to fill the following offices in Freeport: Councilor-District 1, Councilor-at-large, School Committee (2), Sewer District (2) and Water District Trustee (1). Nomination papers are available at the Town Clerk's office. If you have any questions, check with her. Completed forms are due Friday, September 17 at 1 p.m.

There is a special Town Council workshop next Tuesday, September 14 regarding the Tax Cap which will be on the November ballot.

Good news—The Town Report from two years ago is finished. There was a difficult time with the printer and a substantial time to get the problem corrected. The printer swallowed the cost for the change. The two-year old Town Report is available in the Town Hall for anyone that wants one.

There is free camping at Winslow Park from September 20-26. Reservations are needed. Call Winslow Park at 865-4198 to make a reservation.

There is a hazardous materials waste clean-up at the Yarmouth Fire House this Saturday, September 11 from 9 a.m. to 2 p.m. Freeport residents, with proof of residence, are able to get rid of household hazardous waste that is toxic, flammable or reactive.

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Councilor DeGrandpre pointed out that at next week's workshop, the Town's Municipal side and the School side will be discussing what their budgets will look like if the Tax Cap passes. The public will be invited to ask questions and to participate.

Councilor Bishop noted that the Volunteer Appreciation Barbecue will take place on the 19<sup>th</sup> at Winslow Park for anyone that serves on Town Boards or Committees in the Town of Freeport. Invitations were submitted this week and responses are needed by Friday, the 10<sup>th</sup> to provide a count for food.

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

**MOVED AND SECONDED:** To open the Public Comment Period for Non-agenda items only. (DeGrandpre & Arsenault) **VOTE:** (7 Ayes)

**MOVED AND SECONDED:** To close the Public Comment Period for Non-agenda items only. (Cassida & DeGrandpre) **VOTE:** (7 Ayes)

- Fire and Rescue Award Presentation

Rescue Chief Paul Conley and Fire Chief Darrell Fournier recognized members of the community and members of their staffs on an extraordinary call that happened this summer. An ATV being ridden by 13-year old Calvin Burgiss flipped over and landed on him causing him to be critically injured. His friend, Justin Dodge, immediately ran home and reported the accident to his mother. 911 was called and Calvin was transported to Maine Medical Center. Dr. Brad Cushing of Maine Medical's Trauma Center explained Calvin's injuries and the treatment he received. He praised Freeport's EMS crew and the systems of care provided by the Town. Medals were presented to nine rescue workers and a dispatcher. An award was also given to Justin Dodge.

- Circle of Excellence Award Presentation

Councilor Arsenault, Special Projects Chairman, presented the Circle of Excellence Award to Adam Nappi, of Bow Street Market and Distributors and presented him with a plaque. Mr. Nappi pointed out that he was very humbled and appreciated the award. He thanked his family and co-workers. Chair Regier noted that Mr. Nappi's name will be engraved on a plaque outside the Council Chambers, joining other recipients of this award.

Chair Regier thanked him for his many contributions and his anonymous assistance that he has made available. Chair Regier suggested breaking for 10 minutes and refreshments were provided.

At 7:35 p.m. Chair Regier called the meeting back to order and noted that the Public Comment period is still open.

Cindy Reaves, Calvin's mother, thanked everyone that helped save her son's life. She urged the Council to keep the rescue budget strong.

**MOVED AND SECONDED:** To close the Public Comment Period. (Rumpf & Cassida) **VOTE:** (7 Ayes)

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

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**ITEM #165-04** To consider action relative to adopting the September 7, 2004 Consent Agenda.

**BE IT ORDERED:** That the September 7, 2004 Consent Agenda be adopted. (Arsenault & DeGrandpre)

Chair Regier explained the items on the Consent Agenda for members of the public. Mr. Olmstead explained the Dr. Gould Trust Fund.

**ROLL CALL VOTE:** (7 Ayes).

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**ITEM #166-04** To consider action relative to proposed amendments to the Traffic & Parking Ordinance concerning South Freeport Wharf Parking. (Chapter 48). Public Hearing

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

Chair Regier highlighted the changes being proposed and what drove them. Councilor Arsenault asked if a parking space should be allocated for the Assistant Harbor Master. Councilor White noted that the spot for the Harbor Master was discussed at length and there was no mention of a designated spot for the Assistant Harbor Master

Tom Ring, of Atlantic Seal Cruises, asked if surveys or traffic people have helped initiate these new policies. Councilor White indicated that the answer is no. He explained the reasons for these proposed changes to Mr. Ring. Mr. Ring indicated that he is opposed to removing the sticker system because he believes it works. Discussion followed.

**MOVED AND SECONDED:** That the Public Hearing be closed. (Cassida & Arsenault) **VOTE:** (7 Ayes).

**BE IT ORDERED:** That the proposed amendments to the Traffic & Parking Ordinance be approved. (Cassida & Arsenault) **ROLL CALL VOTE:** (7 Ayes).

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**ITEM #167-04** To consider action relative to draft management plans for Hedgehog Mountain and Florida Lake. Public Hearing

**MOVED AND SECONDED:** That the Public Hearing be opened. (DeGrandpre & Arsenault) **VOTE:** (7 Ayes)

Caroline Kurrus, Chair of the Conservation Commission, introduced commission members, Erin Martin, Chris Hoffmann, Mary Sauer, Bob Moore and Richard Bowen. She showed slides and gave an overview of the plans on the two separate properties. Discussion followed. Councilor Arsenault noted a perception that these lands will be dedicated to specific people and specific

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times and will not allow for uses that were outlined earlier. He is not sure how this perception was arrived at. He assured the public that the Commission has worked hard to make sure that the entire community has access to these properties. Mary Sauer assured Councilor Arsenault that snowmobiles will be permitted but there is a proposal to ban other types of motorized vehicles on Hedgehog Mountain. This is something for the Town Council to consider. Florida Lake does not lend itself to ATV use because of the wetness of the area. Bob Moore mentioned that people will be hunting at the same time that people will be walking their dogs. They wanted people to be aware that hunting is a permitted activity in these town areas. Councilor Cassida mentioned that a kiosk would be really helpful at Hedgehog Mountain and Mary Sauer noted that they will probably put one up.

Chair Regier asked if the boundary dispute on the Keith property has been resolved. Ms. Sauer replied that the answer is no because they have been waiting for the management plan. She hopes it will be resolved soon after the management plan is finalized. Ms. Kurrus indicated that this is something they would like assistance from the Town.

Regarding the Hedgehog Mountain Management Plan, Chair Regier asked about the phrase "improving the deed". He asked about the deficiencies in the title that the Commission wants to correct. He asked if there were controls attached at the funding source already. Ms. Sauer explained that at both workshops, members of the public asked what kind of controls there are to prevent the Town deciding to build a school, a football field or whatever at Hedgehog and the answer was that there is nothing in the deeds. There are no conservation easements. There are some protections but she is unclear how strong they are. Discussion followed.

Fred Robie ever so gently pleaded for lifting the restriction on the summit for mountain bike access at Hedgehog Mountain. Discussion followed.

Susan Campbell of Hunter Road, abutter to Hedgehog Mountain, commended the Commission for a great job trying to incorporate the views of the greater public as well as the abutting landowners. She is pleased with the recommendations that ban ATVs because there has been no guidance on this issue up to now. As an abutter, she has concerns with what the future uses may be of this property and there is nothing implicit that would protect that property in the future for conservation or open space. She would like to see something put in the deeds to clarify what the future uses would or would not be for that property. She hopes hunting will be permitted and it is reasonable to limit it to shotgun or bow. She noted the boundary raised by Chair Regier. This is her boundary and she would like to take a look at in the future. She would feel better if it were cleared up for the future. Ms. Kurras advised that there are no plans to do any commercial logging at all. Mrs. Campbell asked if there is any plan to clean up the forest for down trees. The access to get in there with fire equipment is less than ideal. She answered questions for Councilors.

**MOVED AND SECONDED:** That the Public Hearing be closed.  
**(Rumpf & DeGrandpre) VOTE:** (7 Ayes)

Councilor DeGrandpre encouraged the Council to wait to the next meeting before taking final action on this since some folks wanted more time to read through the information. Other Councilors concurred they were ready to vote this evening.

There was consensus that the Town Manager will develop a proposed amendment to the Administrative Code dealing with the Conservation Commission regarding responsibility for the Grant Road and Florida Lake properties.

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Chair Regier asked for comments about the pursuit of deed restrictions. Councilor White feels it is absolutely the right direction to take. Councilor Rumpf noted it is appropriate given the intent of many of the private donors to the Hedgehog Mountain project. A lot of the people that contributed to the project did so with the understanding that it would be managed as conservation and recreation land and not acquired as Town land that could be used for anything. He would be comfortable that the Town Manager explore with the Town Attorney what might be done in that regard and to report back to the Council what the options would be. The options would be easements or deed restrictions. This is something that would have to be thought through. More discussion followed.

**BE IT ORDERED:** That the draft management plans for Hedgehog Mountain and Florida Lake be received by the Town Council. (Rumpf & DeGrandpre)

**MOVED AND SECONDED:** To change the word "received" to approved.  
(Bishop & Arsenault) **VOTE:** (7 Ayes)

**ROLL CALL VOTE ON AMENDED MOTION :** (7 Ayes).

Mary Sauer noted that typos exist and they need to be changed. She asked if she could work with the Town Office to get them fixed. Chair Regier told her to go ahead.

**ITEM #168-04**

To consider action relative to a proposed amendment to the Freeport Town Charter concerning nomination procedures and name placements on ballots. (Section 7.03 (b) and 7.08). **Public Hearing.**

**MOVED AND SECONDED:** That the Public Hearing be opened.  
(Bishop & Rumpf) **VOTE:** (7 Ayes).

Councilor Bishop itemized the proposed changes.

Shall the Town of Freeport approve the following Charter Amendment:

Article VII, Section 7.03(b) and 7.08 of the Charter of the Town of Freeport is amended as follows:

**7.03(b) Filing and Acceptance of Nominations Petitions:**

All separate papers comprising a nominating petition shall be assembled and filed with the municipal clerk as one instrument not earlier than 90 100 days or later than the close of normal office hours, 45,55 days before the election. The clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

**Explanation:**

The purpose of these changes is to avoid the necessity of sending

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out separate absentee ballot envelopes with state ballots and municipal ballots, which is now necessary because of the timing requirements of State law and the Charter. Absentee voting is becoming increasingly popular.

**7.08      "Ordering Candidate Surnames, Names."**

Where two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in the ~~order determined by lot~~ in alphabetical order by last name. ~~No later than 15 days and no earlier than 40 days prior to the election, the town clerk shall determine, by lot, the order that said candidates' names shall appear on the ballot. The proceedings shall be public and the candidates shall be given an opportunity to be present.~~

**Explanation:**

The purpose of these changes is to eliminate the practice of placing names on the ballot by lot and to place names on the ballot in alphabetical order by last name.

The Town Council recommends adoption.

There were no public comments.

**MOVED AND SECONDED:** That the Public Hearing be closed.  
(Cassida & Rumpf) **VOTE:** (7 Ayes).

**BE IT ORDERED:** that the proposed amendments to the Charter of the Town of Freeport be submitted to the voters of the Town of Freeport at the Municipal Election on November 2, 2004.

**BE IT FURTHER ORDERED:** that the Town Clerk place the text of the Amendment on the Ballot. (Bishop & Rumpf) **ROLL CALL VOTE:** (7 Ayes).

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**ITEM #169-04**

To consider action relative to a proposed amendment to the Freeport Town Charter concerning nomination procedures and name placements on ballots. (Section 7.03 (b) and 7.08).

**BE IT ORDERED:** that a Public Hearing be scheduled for September 21, 2004 at 7:00 PM in the Town Hall Council Chambers to discuss the merits of the proposed amendments to the Town Charter concerning nomination procedures and name placement of ballots.

**BE IT FURTHER ORDERED:** that copies be distributed equally between the Town Clerk's office, the Town Manager's office and the Freeport

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Community Library for inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 7 and the Town's website.

Note: The purpose of the second public hearing is to discuss the merits of the proposed charter change. (White & Bishop)

Chair Regier explained why the public hearing was being scheduled.

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

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**ITEM #170-04**

To consider action relative to a Petition for Discontinuance of a section of a Town Way being the former location of the County Road.

**MOVED AND SECONDED:** that the Council receive public comment on the Petition for Discontinuance. (Rumpf & Cassida) **VOTE:** (7 Ayes).

**BE IT ORDERED:** pursuant to the provisions of Title 23, Section 3026 of the Maine Revised Statutes, a portion of a town road known as Old County Road, is hereby discontinued. The discontinued portion is more fully described in Exhibit A attached hereto.

That section of the way as shown on a Maine Department of Transportation Right of Way Map entitled, State Highway "C", Freeport, Cumberland County, Federal Aid Project No. FI-01-1 (6), dated March, 1952, on file in the Office of the Maine Department of Transportation, at its Office in Augusta, File No. 3-73, sheet 12, that lies southeasterly of the present southeasterly line of I-295, and the present northwesterly line of U.S. Route 1, described as follows:

No public easement shall be retained.

A copy of this Order has been given to L.L. Bean, Inc., Wolfe's Neck Farm Foundation and GAA Associates, abutters to the portion of the town road discontinued, and to the Planning Board. A copy has also been filed with the Town Clerk. No damages shall be paid because abutters have not claimed damages. (Rumpf & Arsenault)

Chair Regier explained where this property exists. Mr. Olmstead advised that the owner of the land on which this portion of old road lies has petitioned both the State and the Town for discontinuance of this road. The State of Maine has relinquished their rights to this section of road. Now it has to come to the Town of Freeport for a similar action.

Alan Wolf, Attorney, advised that his client is asking that the Town relinquish its rights. Mr. Olmstead advised that all of the abutters were notified of this meeting. Andrew Arsenault, abutter, asked for clarification. He did not raise any objections to the discontinuance. Discussion followed. Mr. Wolf did not know if the State received any compensation.

**ROLL CALL VOTE:** (7 Ayes).

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**ITEM #171-04** To consider action relative to a one time contribution to several private cemeteries for improvements or reimbursement of expenses.

**BE IT ORDERED:** that the following expenditures be authorized from encumbered 2004 operating funds.

<u>Cemetery Name</u>	<u>Amount</u>	<u>Purpose</u>
Flying Point Cemetery Assoc.	\$ 351	Tree Services
Grove	\$4,000	Fence Replacement
Woodlawn	\$ 600	Mowing

(Arsenault & Bishop)

Chair Regier noted that the money would come from last year's operating money. It will not have an impact on the current year's budget. He noted that the \$351 to Flying Point Cemetery is actually for insurance. He stressed that this is a one-time expenditure.

**MOVED AND SECONDED:** To amend the Flying Point Cemetery Amount of \$351 for insurance purposes. (Arsenault & Bishop)  
**VOTE:** (7 Ayes).

Councilor Bishop pointed out that she has been polling people in Town and everyone believes the cemeteries are all public and that they are maintained by the Town.

**ROLL CALL VOTE ON AMENDED MOTION:** (7 Ayes).

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**OTHER BUSINESS:**

**1. Report on the Tax Commitment for FY 2005**

Mr. Olmstead advised that the Tax rate for next year would remain at \$18.10. There will be no increase in the tax rate next year. The Town received more value in personal property tax than anticipated.

**2, Request from residents and the Housing Trust for the Town to abandon streets.**

Jim Hatch explained that when Varney Road was developed originally in the late 60s, one of the internal drives was accepted as a Town Road and has been maintained as a Town road since then. It is totally surrounded by the project and doesn't go anywhere. They are proposing to redevelop the property and add 12 new units at this location. The fact that this is legally a Town road has created some impediments to their ability to develop this area because of the setbacks and other zoning issues that were created by that fact. The Town Planner recommended that they move forward and come to the Town Council and request that it be abandoned. He displayed a drawing showing the existing buildings and the proposed new buildings. Discussion followed.



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Chair Regier noted that the Council cannot take action this evening. He asked for a general sense from Councilors on the discontinuation. There was consensus for the Trust to go forward. Chair Regier asked Mr. Hatch if they would prepare the legal documents and he agreed that their attorney would take care of it and will get it on a future agenda. Mr. Olmstead advised that it will not require a public hearing.

Mike Boucher of 108 Bow Street advised that when the Mast Landing School was being developed, the Town offered to abandon the right-of-way. Mr. Morrill was uncomfortable at the time. Now he has moved and his home is being sold. When approached recently, he did not exhibit any discomfort at this idea. Most of the driveway of 104 Bow Street is in the right-of-way. It leads to nowhere and it would be easier for both owners to not have this fragment of land between them. He is proposing to split the 30' x 155' between the two owners.

Chair Regier noted that this is the perfect example of a paper street. He suggested that before doing anything with this, the Council should make sure the School Committee is comfortable with it. If this is a chance to deal with both of the paper streets, the other neighbors should be notified to see if the entire old subdivision can be dealt with at once. He asked Mr. Boucher to talk to the other neighbors to see how far it will go. Mr. Olmstead will check with the School Committee. Councilors concurred that they had no problem if the School Committee is in favor of it.

Robert Bowe of 327 Lower Flying Point advised that they had their property surveyed last October. They have owned it since 1977. He introduced John Schwanda, surveyor. He made reference to a cover letter with two attachments. The property has always been identified as being bisected by what became Lower Flying Point Road. Lower Flying Point Road was never designed to be in the location it's at. He explained where it was designed to be on the plan. Because people used it, this became the road and the Town adopted it in 1964 and put what is Lower Flying Point Road across their property. He noted that the little triangular piece of property across Lower Flying Point Road has been misdeeded to one or two of the abutters on the other side of the road. They are dealing with their neighbors to try to resolve this issue. It appears that two people think they own it. They believe their deed will prevail. Since the Town took the piece of land that goes across their property, and they have the abandoned road with two 40' roads, one is an extension of Island View and the other is just in the woods there, that the square footage of that property that abuts that property be granted back to them. Discussion followed.

Chair Regier requested a copy of the survey because this tax map copy is not clear. Councilor Bishop would like to know if this is a buildable lot. Councilor Rumpf noted that he would like to see a record that no compensation was received when the road was accepted in 1964. Mr. Olmstead was asked to provide a copy of the 1964 Town Meeting.

**Discussion on proposed Rules & Regulations for street entertainer, (postponed indefinitely)**

**Community Center Project update**

Councilor Cassida commended the Community Center Committee members. They will catch up on Minutes. Scott Simond is the architect selected. He has had a survey done. The ongoing site work is there. They have held meetings with potential users to find out what they want and ideally what they want for space. They recognized that they didn't have enough money to build that large a building. They then began to combine spaces, pare spaces down, redefined what people needed, etc. There are some spaces that fell off the block fairly quickly. The Council

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Chambers fell off and Freeport Community Players' interest in having a theatre in the Community Center was also an easy thing to eliminate. FCS' space has been reduced. Their wish to have a large Clothes Tree has been pared down. The Maxx got pared down. The architect came back with a schematic that is really intended to show the square footage in a way so that one could visualize what the space might look like. After placing plans for the new center in the rear of the two existing buildings, they learned that they were a million dollars over budget to build that. The process of paring down continued through the various schemes and they are now into Scheme "E". The total estimate for building Scheme "E" is \$1.03mm. This is really just for construction. Soft costs still need to be added in related to building. They are using 26% as an estimate for these costs so they are at a project cost of 1.3mm, which is pretty close to what they have.

Unfortunately from a use standpoint, some things have been cut out of the original construction. The committee is somewhat uncomfortable with some of those cuts. The Maxx is an unfinished space but they are working through Scheme "F". They have some assurance that they will come in close to what is budgeted for construction costs. They are not done yet. The committee has had ongoing discussions on how to manage the building once it is constructed. There is a projection that it will cost a lot of money to run this building. Currently the Town commits funds to most of the organizations that will be using this center.

He explained the committee's assumption on what different groups can pay to run their operations. The committee is working through this. Freeport Community Ed does not want to make a firm commitment to being financially obligated to a space. They were quick to point out that they use school property free of charge. They were looking for free space. Chair Regier asked Councilor Cassida to make sure the Advisory Board understands that their dotted line is disappearing in the center. The committee agrees that the Teens need some type of support and would like to see the School Committee take on responsibility for The Maxx. They could help the teens raise funds. At some point, the committee will be coming back and making firm recommendations to the Council on a financial commitment to operate the Community Center. There will be a request for some financial commitment; a line item in future budgets to operate this facility.

There will be two small conference spaces and one larger one that are not dedicated to a specific use that could generate some income. More discussion followed. It may be necessary to put together a fundraising committee. If so, they will come back to the Council to appoint one which would include some FCS Board members. Councilor Cassida advised that he will try to get back more frequently to the Council as they continue along the road.

**Soule School**

Councilor DeGrandpre explained that four proposals have been received—Bustins Island Corp, Doten's Construction, Friends of George C. Soule Park and Village Green and the French School of Maine. They will work with the Town Engineer to see what is acceptable. They need to schedule a Municipal Facilities meeting. It was decided to hold it on Monday, September 13, from 5 p.m.-6:30 p.m. in Town Hall. Councilor Rumpf suggested that each member look at the proposals and do an assessment and ranking of the proposals separately. Mr. Olmstead will add the location to the agenda, which will be sent by e-mail.

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**Tax Meeting**

Chair Regier advised that Phil Harriman has provided a written response that he is unable to attend the workshop. Carol Palesky also wrote that she can't make it but will send a representative.

Councilor Arsenault pointed out that he received a letter from Ed Bradley regarding how he would like to see the Council react to the Palesky bill. Mr. Olmstead will make copies and send them out in Councilors' packets.

**Retiring Employee**

Mr. Olmstead asked Councilors to sign a card for a retiring employee, Mike Whitehouse.

**MOVED AND SECONDED:** To adjourn at 10:58 p.m. (Cassida & Bishop)  
**VOTE:** (7 Ayes).

Respectfully Submitted,

Sharon Coffin  
Town Council Secretary

