

Clark

**AGENDA  
FREEPORT TOWN COUNCIL MEETING #18-2003  
TOWN HALL COUNCIL CHAMBERS  
OCTOBER 7, 2003 – 7:00 P.M.**

**FROM:** Dale C. Olmstead, Jr.

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

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of Meeting #17-2003 held on September 16, 2003 and accept the Minutes as printed.

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

**\*CIRCLE OF EXCELLENCE AWARD**

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

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ITEM #144-2003 To consider action relative to an amendment to the Freeport Zoning Map converting the Resource Protection Zone I around the wellhead off the Webster Road to Resource Protection Zone II. (Public Hearing).

**MOTION:** That the Public Hearing be opened.

**MOTION:** That the Public Hearing be closed.

**BE IT ORDERED:** That the proposed amendment to the Zoning Map be approved.

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ITEM #145-2003 To consider action relative to proposed amendments to the General Assistance Ordinance concerning maximum levels of assistance outlined in Appendixes A, B & C (Chapter 46).

**BE IT ORDERED:** That a Public Hearing be scheduled for October 21, 2003 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the General Assistance Ordinance.

**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 7 and the Town's website.

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ITEM #146-2003 To consider action relative to expenditures from the Winslow Park Reserve Account to provide for the relocation of a shower and restroom building and to provide a contingency account for the construction project.

**BE IT ORDERED:** That up to \$12,200 be expended from the Winslow Park Reserve Account to provide for the relocation of a shower and restroom building and to provide funds for a construction contingency account for the construction of new facilities.

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ITEM #147-2003 To consider action relative to an amendment to the Tax Acquired Property Policy concerning the sale of property.

**BE IT ORDERED:** That the proposed amendment to the Tax Acquired Property Policy dated October 7, 2003 be approved.

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ITEM #142-2003 Tabled.

To consider action relative to approving a Homeland Security Grant Application.

**BE IT ORDERED:** That the proposed Homeland Security Grant Application be approved.

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**OTHER BUSINESS:**

1. Consider a contribution for attendance at the National Youth Leadership Forum. - Councilor White.
2. Update on the proposed Water Rate increase.
3. Report on Planning Board reorganization.
4. Report from the Ordinance Committee on amending the Styrofoam Ordinance.
5. Report from the Municipal Facilities Committee on a request to buy municipally owned property located near Old South Freeport Road.
6. Informational exchange.

Adjourn.



**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #18-2003**  
**TOWN HALL COUNCIL CHAMBERS**  
**October 7, 2003 – 7:00 P.M.**

	<u><b>PRESENT</b></u>	<u><b>EXCUSED</b></u>	<u><b>ABSENT</b></u>
John Arsenault, Prout Road	X		
Rod Regier, South Street	X		
Charlotte Bishop, Maquoit Drive	X		
Rich DeGrandpre, Timber Ridge Road	X		
Frederick White, 45 Pleasant Hill Road	X		
Thomas Rumpf, P.O. Box 819, S. Freeport	X (late)		
James Cassida, 5 Timber Ridge Road	X		

Chair Arsenault called the meeting to order and noted that Mr. Rumpf is running late but should be here shortly.

**FIRST ORDER OF BUSINESS:** To waive the reading of Minutes of Meetings #17-2003 held on September 16, 2003 and accept the Minutes as printed.

**MOVED AND SECONDED:** To waive the reading of Minutes of Meetings #17-2003 held on September 16, 2003 and accept the Minutes as printed. (Cassida & Regier) VOTE: (6 Ayes) (1 Excused—Rumpf).

**ANNOUNCEMENTS:**

Chair Arsenault advised that on October 30 there will be a high school dedication of the new portion and auditorium from 5-7 p.m.

Chair Arsenault noted Election Day is on November 4 and there are important issues to consider. Citizens are encouraged to vote and absentee ballots are now available. If anyone is confined to his or her home, they should give the Town Clerk a call and she will assist them with their ballot. Councilor Regier pointed out that one may use an absentee ballot without having to get a doctor's note.

Chair Arsenault pointed out that Freeport has won second place in the MMA Annual Report competition. He read a letter into the public record explaining this award. Mr. Olmstead advised that this second place award was won in a category of 400 with the smallest budget. Chair Arsenault thanked everyone for their efforts, especially Kelly Profenno.

**CIRCLE OF EXCELLENCE AWARD**

Councilor Cassida, Chair of the Special Projects Committee, presented this year's award to Thomas and Catherine Wilbur of Wilbur's Chocolate. Edgar Leighton and Ed Bonney shared stories about the Wilburs. At 7:15 p.m. a brief recess was taken and refreshments were served.

Chair Arsenault brought the meeting back to order at 7:30 p.m. and noted that Council Rumpf arrived at 7:03 p.m.

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

**MOVED AND SECONDED:** To open the public comment period on non-agenda items only. (Regier & DeGrandpre) **VOTE:** (7 Ayes)

Ralph Turner, operator of Laughing Stock Farm, explained that he lost a 140 year-old barn two weeks ago in a fire. The good news is that no one was hurt and their house was saved. He had photographs of the fire to share with everyone. He praised the Freeport Fire Department for arriving 12 minutes after receiving the call and for all their efforts. He asked the Council to consider in the future staffing the firehouse from 7 p.m. to 7 a.m. so that a fire truck or ambulance can be dispatched quickly.

**MOVED AND SECONDED:** To close the public comment period on non-agenda items only. (Regier & DeGrandpre) **VOTE:** (7 Ayes)

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

ITEM #144-2003 To consider action relative to an amendment to the Freeport Zoning Map converting the Resource Protection Zone I around the wellhead off the Webster Road to Resource Protection Zone II. (Public Hearing).

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

Town Planner, Donna Larson explained the amendment to the Council and answered questions. Discussion followed. There were no public comments made.

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

**BE IT ORDERED:** that the proposed amendment to the Zoning Map be approved. (Cassida & Bishop)

**MOVED AND SECONDED TO ADD:** The effect of this order shall be to convert the existing RP-I Zone off Webster Road to RP-II. (Regier & Cassida) **VOTE:** (7 Ayes).

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

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ITEM #145-2003 To consider action relative to proposed amendments to the General Assistance Ordinance concerning maximum levels of assistance outlined in Appendixes A, B & C (Chapter 46).

**BE IT ORDERED:** That a Public Hearing be scheduled for October 21, 2003 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the General Assistance Ordinance.

**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

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inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 7 and the Town's website. (Rumpf & Bishop)

Mr. Olmstead explained that this is done each year. Councilor DeGrandpre asked if there is a date that this needs to be done by and Mr. Olmstead noted that the date is January 1.

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

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ITEM #146-2003 To consider action relative to expenditures from the Winslow Park Reserve Account to provide for the relocation of a shower and restroom building and to provide a contingency account for the construction project.

**BE IT ORDERED:** That up to \$12,200 be expended from the Winslow Park Reserve Account to provide for the relocation of a shower and restroom building and to provide funds for a construction contingency account for the construction of new facilities. (Regier & Cassida).

Councilor Cassida asked for confirmation that this is really a relocation of a building. Mr. Olmstead advised that the condition of one of the buildings slated for demolition has been determined to be structurally sound and the park has a need for storage. The Commission is asking for \$7,200 to move the building and set it up on a slab to provide storage space. They also are asking for \$5,000 for a construction contingency account. Councilor Cassida recommended changing the wording in the motion. Mr. Olmstead explained that the reserve account is probably standing at \$200,000 right now.

**MOVED AND SECONDED TO AMEND:** That up to \$12,200 be expended from the Winslow Park Reserve Account to provide for the relocation of an existing shower and restroom building to a new location for use as storage, and to provide funds for a construction contingency account for the construction of new facilities. (Regier & Cassida) **VOTE:** (7 Ayes).

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

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ITEM #147-2003 To consider action relative to an amendment to the Tax Acquired Property Policy concerning the sale of property.

**BE IT ORDERED:** That the proposed amendment to the Tax Acquired Property Policy dated October 7, 2003 be approved. (White & DeGrandpre)

Councilor DeGrandpre noted that there are still some issues that need to be addressed and he requested that this item be tabled. The Municipal Facilities Commission will be meeting soon and he will bring it back to the Council at its next meeting on October 21.

**MOVED AND SECONDED:** To table this item until October 21. (DeGrandpre & Bishop) **ROLL CALL VOTE:** (7 Ayes).

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ITEM #142-2003 Tabled.

To consider action relative to approving a Homeland Security Grant Application.

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**BE IT ORDERED:** That the proposed Homeland Security Grant Application be approved. (DeGrandpre & Cassida).

Chair Arsenault recalled that the Council had concerns at its last meeting on one of the components of the grant—the Veta Alarm System proposed by the Chief of Police. He asked that Chief Scofield address this issue and enlighten the Council on what it is. Chief Fournier asked if he could address this issue since he and the Police and Rescue Chiefs talked and also attended a Regionalization meeting where they discussed coming up with a radio system upgrade. They would like to go forward with this item. The Chiefs suggested tabling the Public Safety Building security system and Veta Alarm System for 8-10 months. Discussion followed.

**MOVED AND SECONDED:** that an appropriation of up to \$5,000 of the Homeland Security Grant be approved and further move to table until September 2004 any further appropriations to this account. (Regier & DeGrandpre) **ROLL CALL VOTE:** (7 Ayes).

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**OTHER BUSINESS:**

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**1. Report from the Ordinance Committee on amending the Styrofoam Ordinance.**

Councilor Regier, Chair of the Ordinance Committee, advised that he has been working with Councilors Cassida and Rumpf since May on this issue. He reported that upon further review of the Styrofoam Ordinance, the Town Attorney has determined that an amendment is not necessary for Shaw's to sell prepackaged eggs and meat processed outside of Freeport. He noted that this has been a good case study and it was easy to keep focused. Councilor Cassida is very happy with the outcome—it will not change the Freeport Ordinance. Councilor Rumpf pointed out that this Ordinance will have an impact on Shaw's packaging of certain produce. They will have to modify their operations in order to comply with the ordinance. Dennis Qwider, Director of Quality Assurance for Shaw's, noted that he is pleased that it has taken this course and is looking forward to becoming part of this community.

Steve Goble, owner of McDonald's, pointed out that he does not think it is fair to his business since he has to replace all styrofoam packaging in his Freeport restaurant. He is not allowed to do any products in Styrofoam. He sells salads and drinks and he has been required by the Ordinance to find paper replacements. This Ordinance has caused him to spend an additional \$3,000 per year and he has complied for 12 years. He feels he is not on an even playing field. Councilor DeGrandpre noted that the only thing Shaw's will be able to sell on styrene pads is uncooked meat and raw eggs packaged outside of their store. Councilor White advised that the ordinance applies consistently to all businesses in Freeport and everyone is on an even playing field. Councilor Cassida mentioned that Shaw's will not be able to sell salads in polystyrene in Freeport. Councilor Bishop gave Mr. Goble a copy of the letter from the Town Attorney explaining the issues. Councilor Rumpf advised that if Mr. Goble reads the Ordinance, it is clear that its primary purpose is on controlling roadside litter. Councilor Regier advised that the Shaw's store in Freeport will definitely have a market disadvantage because of the Ordinance.

Cathy Loftus from Shaw's appreciated Mr. Goble's concerns, agreed that their Freeport store will experience an economic impact by not being able to sell coffee in the same Styrofoam containers used by their other stores and will be repackaging products such as mushrooms, etc. in paper packaging. They will do everything they can to be a great neighbor and environmentally conscientious.

Councilor Regier advised that the Ordinance Committee's recommendation is for no change.



**2. Consider a contribution for attendance at the National Youth Leadership Forum. – Councillor White.**

Councillor White advised that he received a call from Elizabeth Neuts asking for financial support from the Town to participate in a forum in Washington, D.C. He read a letter into the record from Ms. Neuts. He asked if the Council would be willing to provide \$150. Councillor Regier asked that this be conditioned upon requiring a verbal or written report from Miss Neuts. Councillor White agreed.

**MOVED AND SECONDED:** To move an item not on the printed agenda. (Regier & Cassida) **VOTE:** (7 Ayes).

**MOVED AND SECONDED:** To allocate \$150 from the Miscellaneous and Contingency Account to support Elizabeth Neuts in attending a forum. There will be an expectation upon her return that she submit a formal and written report to the Town Council and perhaps present it in person. (White & Bishop). **ROLL CALL VOTE:** (7 Ayes).

**3. Update on the proposed Water Rate increase.**

Mr. Olmstead reported that the installation of the Webster Road well is pretty much complete. There has not been a water rate increase in ten years but the Water Company petitioned the PUC for an increase of approximately 9% to take care of operating costs. After intervening, we were able to negotiate the increase to 7.3%. The next increase was for the installation of a well, which was a 16.4% increase. That was the second phase of the increase, which would generate approximately \$90,000 in new revenues for the company. We intervened in that case as well to try to reduce the rate increase. Our argument was that there were a lot of soft costs involved in the rate increase and that they should not be folded into the rates. We were somewhat successful and the rate increase agreed to a \$70,000 revenue stream, reducing the rate increase from 16.4% to 12%. Pat Scully has written to the Council asking that the Water District Trustees not pursue the purchase of the water system for a period of time (probably 2 years) and that the Water Company would most likely agree to this. The Water District Trustees are currently doing a feasibility study on the acquisition of the system. Mr. Olmstead feels this is a very good settlement for the ratepayers and taxpayers because a third of this revenue comes from fire protection.

Genie Beaulieu advised that the trustees strongly suggest that we continue with the study by Malcolm Horton. They will be meeting tomorrow night. Councillor Regier asked if Council action is needed. Mr. Olmstead advised that the Minutes could reflect that the Town Council supports the recommendation by the Town Attorney and it would be sufficient for the Water Company. If we go to the next level of the PUC, we do not feel that we would get this low an increase in fees. It would be higher. We feel that the Water Company is making concessions to retain ownership of the system. The number of years of amortization needs to be clarified. Mr. Olmstead advised that the trustees were told it would be for five years and Ms. Beaulieu agreed. Mr. Olmstead advised that the non-purchase agreement will be for a minimum of two years.

Chair Arsenault asked what Mr. Olmstead is looking for tonight. Mr. Olmstead advised that if the Council finds the Town Attorney's recommendation acceptable, it should be recorded in the Minutes. Councillor Rumpf suggested that the Chair ask if anyone on the Council has objections to this approach. The Council has no objections to this recommended settlement. Councillor Regier mentioned the non-purchase agreement and Mr. Olmstead advised that it would be for a minimum of two years. Councillor DeGrandpre agreed that we should not pursue the purchase for a minimum of two years and others concurred.

**4. Report on Planning Board reorganization**

Donna Larson, Town Planner, explained that the Planning Board has spent several months looking at what it does and how it can be done more efficiently. The final draft proposal is before the Council but does not include any

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Ordinance language. That will be the next step. She is looking for a sense of whether the Council agrees with this proposal. The proposal is to create a Planning Board that plans, create a new Project Review Board, eliminate the Design Review Board and create a Staff Review Board to handle smaller reviews and projects. Some Planning Board responsibilities will be shifted to the Board of Appeals and also to the Codes Enforcement Officer. Redundant reviews currently heard by both the Coastal Waters Commission and the current Planning Board will be heard only by the Coastal Waters Commission on aquaculture and structures extending into the water (piers, wharves and docks). Ms. Larson answered questions for Councilors.

Councilor Rumpf commended everyone who helped on this. He asked if this proposal has been discussed with the Town Attorney. Ms. Larson advised that the Town Attorney responded back in August regarding the Board of Appeals. Councilor Rumpf had questions about wharfing out and the notification procedures. Chair Arsenault asked if the public would be notified and invited to the Staff Review Board meetings and whether there would be a published agenda. Ms. Larson advised that the public would be notified and invited and that there would be a tape recording of the Staff Review Meetings. There will be abbreviated findings. All property owners within 200' would receive an agenda. These will be daytime meetings, perhaps at 5 p.m. on Wednesdays. More discussion followed. Councilor Regier asked the Town Planner to provide an option to applicants to go to the full Planning Board if they so desire. Councilors concurred that this was great work by the Town Planner and they thanked her. She noted that the next steps are that the Planning Board will look at Ordinance language. A public hearing will be scheduled when the Board reaches a position that they are happy with. Most of the policy decisions have been resolved. The Planning Board strongly encourages the Town Council to determine who will be on the new boards.

Chair Arsenault would like to know where the present Planning Board and Design Review Board members want to sit. Ms. Larson advised that we have two boards with 14 people currently and we will end up with two boards with 14 people. They might not all get their first choice. Councilor Rumpf pointed out the importance of having Board members with the right skills. Mr. Olmstead advised that the Council can disband or remove people from Boards. Ms. Larson suspects that she will be returning with a package to the Council in January or February but Mr. Olmstead suspects it will be a six-month process.

**4. Report from the Municipal Facilities Committee on a request to buy municipally owned property located near Old South Freeport Road.**

Councilor DeGrandpre explained that the property is something the Town will never use because it is not able to use roads that intersect this piece so the Committee's recommendation is that it can sold. There are overhead wires and there may be some underground ones as well but the easements go with the property. It is not of sufficient size to develop. If it is added to the current owner's property, he could not subdivide. The owner wants to control this property so that he can improve his property. The Tax Assessor provided a value for the property of \$5,000. Mr. Olmstead advised that the interested property owner has agreed to this amount. Councilor Regier asked that this be scheduled as an action item for the next agenda since it is the sale of a public piece of property. Councilor Cassida agreed that this should be "out there". Other Councilors concurred.

Councilor Regier asked if the Town would be incurring any expense in this sale. Mr. Olmstead noted that there will be some legal descriptions needed and perhaps a survey but there has not been any conversation with the person wishing to buy the parcel who would pay for these. If we are selling the parcel for \$5,000, the proceeds could be eaten up if there is any surveying done. He is not convinced a survey needs to be done. He also noted that we could provide a Quit Claim Deed and develop a general description. He cannot believe this would cost more than \$250. If a Warranty Deed is desired, the purchaser can pay for it. Chair Arsenault would prefer that the purchaser pick up all the selling costs. Mr. Olmstead advised that this may not appear on the next agenda. No action is necessary tonight.

**Informational Exchange.**

Mr. Olmstead advised that in our quest to find grant money, we have discovered some funds call Municipal Investment Trust Funds which is a \$10mm pot of State funds that is available for downtown revitalization



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projects. A community center is the type of project the State is looking to help support. It appears we have a very good match and the State is enthused about the project and the fact that we already have the match in hand. The land owned by FCS would also count towards the match. We feel that we can submit a grant application that will already have a 3 or 4 match coming from the community. FCS will be coming to the next meeting on the 21st asking that you sponsor a half million-dollar grant application for a community center. The required public hearing that evening is already being advertised. He is confident there will be a large audience that evening. The deadline for the application is November 1. We should know in December if we are awarded the grant.

Councilor Regier advised that the 3-month Control Appropriation Report is ready and everything is where it should be.

Councilor Bishop advised that a very nice volunteer recognition barbecue was held at Winslow Park. She thanked Judy Goodenow and everyone who helped, donated gift certificates, cooked and manned the barbecues.

Councilor DeGrandpre reported that he, Councilor White and Gail Senese met with the Design Review Board and were able to get some guidance from them. The roofline is offensive because it looks like a doublewide trailer. He thanked the Design Review Board for helping them understand what they were looking for. It was a productive meeting and they are off to the drawing board. They are hoping to come up with something they can get approved.

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**Adjournment**

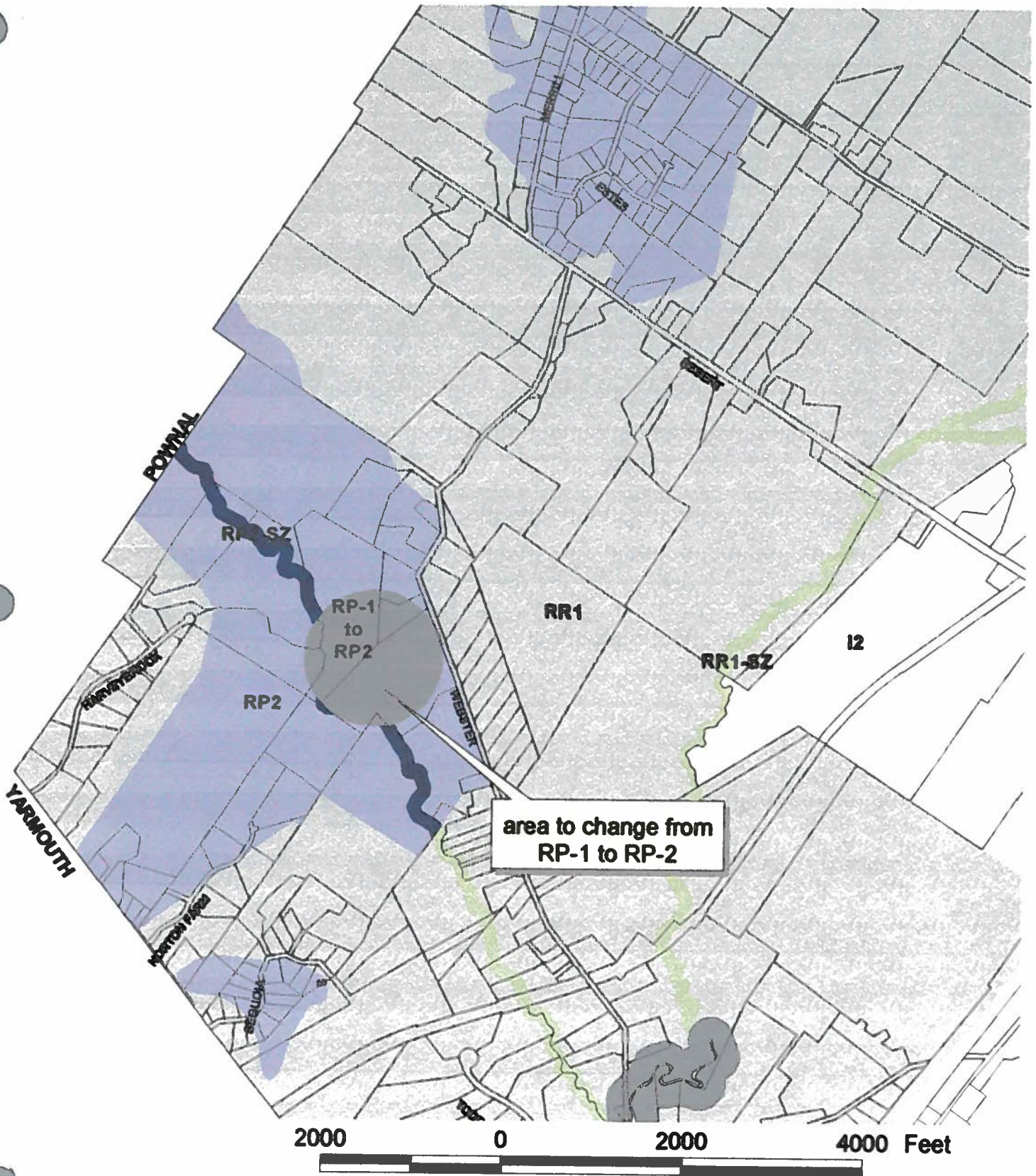
**MOVED AND SECONDED:** To adjourn at 10:25 p.m. (Cassida & Bishop)  
**VOTE:** (7 Ayes)

Respectfully Submitted,

*Sharon Coffin*  
Sharon Coffin, Council Secretary



Town of Freeport  
Webster Road Area  
Zoning Map Amendment



prepared by the Freeport Planning Department  
September 2003





JOHN ELIAS BALDACC  
GOVERNOR  
MG JOSEPH E. TINKHAM  
II  
COMMISSIONER

STATE OF MAINE  
DEPARTMENT OF DEFENSE, VETERANS AND EMERGENCY  
MANAGEMENT  
MAINE EMERGENCY MANAGEMENT AGENCY  
72 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0072

PHONE: 207-626-4503/800-452-8735  
FAX: 207-626-4499

ARTHUR W. CLEAVES  
DIRECTOR

June 24, 2003

Mr. Dale C. Olmstead, Jr.  
Town Manager  
30 Main Street  
Freeport, Maine 04032

Dear Mr. Olmstead:

I am pleased to inform you of additional funding made available to the State of Maine by the Department of Homeland Security (DHS) for use in furthering the state's homeland security efforts and to improve first responder preparedness in Maine. The Town of Freeport has been approved to receive \$47,502.40 for homeland security and related activities.

One of Governor Baldacci's key initiatives for all aspects of government has been to strengthen regionalization and collaboration between Maine municipalities. In keeping with these priorities, Maine Emergency Management Agency has worked hard to allocate Homeland Security grant funds with the intent of encouraging cooperation between communities. Our intent of targeting nearly half of the grant funding for County and regional activities is to reward communities that work together for the good of several towns rather than protecting their individual interests. We encourage you to contact your County Emergency Director for more details on the funds dedicated to regional preparedness initiatives.

As you can see from the Governor's letter, this grant presents an important opportunity for Maine to improve its interoperable communications systems. Not only will this effort strengthen our Homeland Security efforts, but it will also be of critical benefit to first responders reacting to all types of disasters. MEMA has provided a list of approved equipment that can be purchased with these grant funds, however we would ask grantees to pay special attention to the section covering communications gear, and to begin thinking of innovative ways in which many jurisdictions can partner to stretch these federal dollars as far as possible.

A complete grant guidance and application package is included with this letter. Documents are also available electronically at: [www.maine.gov/mema](http://www.maine.gov/mema). Per DHS reporting guidelines, MEMA will require detailed budget worksheets and written narratives for grantees' spending requests; examples and blank worksheets are included with the grant materials. All requests should be submitted through County Emergency Management Agency offices, and will be passed along to MEMA by County EMA Directors.

I look forward to working with you as we continue to improve Maine's readiness and response capabilities. Together we can provide leadership and serve as an example for all facets of regionalization in Maine. Please do not hesitate to contact myself or Bruce Fitzgerald at 626-4503 with any questions you may have regarding this important grant award.

Sincerely,

Arthur W. Cleaves  
Director

# **Freeport Fire Rescue**

## ***Memo***

**To:** Dale Olmstead  
**From:** Chief Fournier *DF*  
**Subject:** Homeland Security Grant  
**Date:** September 10, 2003

As you are aware, I have met with Public Safety Officials to identify needs in the community where the Homeland Security Grant could be used. We have identified three areas:

1. Updating radio communications capabilities with Pownal, Durham and Freeport to allow interoperability between the communities at Emergency scenes. This will also allow Public Safety dispatchers to monitor one frequency as opposed to the four frequencies that they are currently monitoring. The radio upgrade will also improve our mutual aid responses for emergency calls between the communities. At this time, I am gathering the final cost projections for this project.
2. Security System for the Public Safety Building. This system will allow security card access for all personnel at the Public Safety Building. The card system is also compatible with the same card system used by area hospitals, and can be expanded to other municipal buildings within the community. The back of the card is designed to hold pertinent information of Emergency Personnel to be used in a medical emergency at the scene or hospital. The system also logs all entries of personnel to the Public Safety Building and can easily remove employees from the system.
3. Veta Alarm System. The Veta Alarm System would be used by the Police Department to monitor entry of personnel in buildings considered vulnerable. The system could also be used in the prevention of criminal activity in area businesses and homes.

Today, I am still waiting for final prices and proposals for the above items and will forward that information to you as soon as it is received. If you have any further questions, please contact me.

***FIRE PROTECTION ~ INVESTMENT IN LIFE***



## **ORDINANCE COMMITTEE MEETING MINUTES**

**SEPTEMBER 25, 2003 – 6:00 P.M.**

**PRESENT:** Jim Cassida, Tom Rumpf, Rod Regier.

Chairman Regier requested several revisions to the September 11, 2003 Committee minutes.

Chairman Regier reported that upon further review of the Styrofoam Ordinance, it appears that an amendment was not necessary for Shaw's to sell prepackaged eggs and meat processed outside of Freeport. A letter from the Town Attorney was distributed that confirmed that.

**MOTION:** That the Committee recommend to the Town Council that no changes to the ordinance are necessary and that the Town Attorney's opinion be attached to the recommendation. (Cassida and Rumpf – 3 yes).

**Adjourned:** 6:12 p.m.



100 Middle Street, West Tower, P.O. Box 9729, Portland, Maine 04104-5029  
207-774-1200 Fax 207-774-1127  
Internet: bssn.com

Christopher L. Variotis  
E-mail: cvariotis@bssn.com

September 19, 2003

**VIA FAX 207-865-0929 and  
VIA E-MAIL [dolmstead@freeportmaine.com](mailto:dolmstead@freeportmaine.com)**

Dale Olmstead, Jr., Town Manager  
Town of Freeport  
30 Main Street  
Freeport, Maine 04032-1209

**Re: Questions on Styrofoam Ordinance**

Dear Dale:

You have asked me to address four questions under the Town's Styrofoam Ordinance in its current form.

**Question 1:** Can a store located in Freeport package meat or eggs in Styrofoam containers?

**Answer:** No. Section 1 of the Ordinance contains a specific provision relating to food packagers. It states: "no food packager shall package meat, eggs, bakery products or other food in polystyrene foam (PSF) containers...." The term "food packager" is defined in the Ordinance as "any person located within the Town of Freeport who places meat, eggs, bakery products or other food in packaging materials for the purpose of retail sale of those products...." Putting those provisions together, it is clear that a store located within the Town of Freeport cannot package meat or eggs – or any other food product – in Styrofoam containers.

**Question 2:** Can a store located in Freeport sell uncooked meat or eggs in Styrofoam containers if the meat or eggs are packaged outside of Freeport?

**Answer:** Yes. There is no prohibition in the ordinance against selling uncooked meat or eggs packaged in Styrofoam containers if the packaging occurs outside of Freeport. Section 1 of the Ordinance does state that "no retail food vendor shall serve or sell prepared food" in Styrofoam containers. However, the definition of "prepared food" has an express exclusion: "'prepared food' does not include any raw uncooked meat or eggs." Because of the that

exclusion, uncooked meat and eggs are not subject to the ban on serving or selling prepared foods and therefore can be sold in Styrofoam containers as long as the packaging did not occur in Freeport.

Question 3: Does the exclusion for "meat or eggs" extend to poultry?

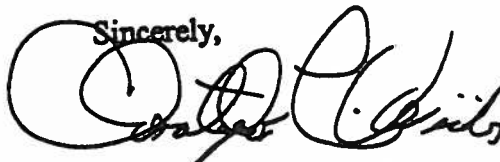
Answer: Yes. Undefined terms in a statute or ordinance are to be given their common, ordinary meanings. Camplin v. Town of York, 471 A.2d 1035 (Me.1984). A standard dictionary definition of the word "meat" is: "animal tissue used as food." *Webster's New Collegiate Dictionary* (9<sup>th</sup> Ed. 1981). Applying that ordinary definition, I believe the word "meat" would include animal flesh of all kinds, including poultry, fish and fowl. Obviously, it would not include vegetable products.

Question 4: Does the fact that some of the Council findings in the Ordinance may be outdated impair the effectiveness of the Ordinance?

Answer: No. The twelve findings in the preamble to the Ordinance set forth a number of different reasons why the Ordinance is in the public interest. You have indicated that some of them may be outdated, in terms of their references to scientific studies and data. However, as long as even one valid basis for maintaining the Ordinance continues to exist, the Ordinance serves a public purpose. There is therefore no need to delete the outdated references. The Town simply needs to understand that it would have to rely only on the findings which remain accurate in the event of a challenge to the Ordinance.

I hope this letter proves helpful. Let me know if you have any additional questions.

Sincerely,



Christopher L. Vaniotis

CLV/lc

Carpenter/CLV/Freeport/OlmsteadLtr091703 5005.997

# **Bernstein, Shur, Sawyer & Nelson, P.A.**

Counselors at Law

100 Middle Street, West Tower, P.O. Box 9729, Portland, Maine 04104-5029  
207-774-1200 Fax 207-774-1127  
Internet: bssn.com

Direct Line: (207) 228-7201  
E-Mail: pscully@bssn.com

September 26, 2003

John Arsenault, Chair  
Freeport Town Council  
Town of Freeport  
30 Main Street  
Freeport, ME 04032

**Re: Consumers Maine Water Company – Proposed Increase in Rates  
Maine PUC Docket No. 2003-105**

Dear Chairman Arsenault and Members of the Council:

I am writing to update the Council on the proposed settlement of this rate case with Consumers Maine Water. Back in February 2003, Consumers filed an application with the Maine Public Utilities Commission ("PUC") for an increase in water rates for its Freeport division. The proposed rate increase was in two steps. The first step was an increase of \$50,537, or 9.27% above current rates. This "Step One" increase was driven by increased operating expenses, primarily personnel and insurance costs, which have increased since Consumers' last rate increase in 1994. After several meetings and exchanges of information, the parties negotiated an agreement for this Step One increase in May, and the agreement was approved by the Commission in June. That agreement resulted in a 7.3% increase, down over \$10,000 annually from the 9.3% increase proposed by Consumers.

The second step of the rate case involved the cost of the new well Consumers is installing on Webster Road. As originally filed, Consumers proposed a Step Two increase of \$90,000 (16.4%) to go into effect once the new well is operational in October. Consumers documented total costs for the new well of close to \$600,000. However, of these total costs, the actual well construction costs are less than \$150,000. The vast majority of the other well costs, going back over a decade, are so-called "soft costs," including exploration, consultants, engineers, test wells, and other costs Consumers has incurred over the past decade in its effort to locate and obtain approval for a second well site. Many of these soft costs were incurred in the permitting process before the Planning Board.

In a typical rate case, Maine PUC rules allow a utility to include all soft costs associated with a construction project as additions to the Company's "rate base." The company is then allowed to earn a return each year on that rate base, and to recover annual depreciation on the rate base. Additions to rate base also drive up property taxes, income taxes and other company expenses, all of which increase costs to customers.

As the second phase of the rate case proceeded, the Public Advocate's Office and the Town have worked to try to minimize the size of the rate increase. Our principal argument has been that the soft costs spent by Consumers in locating, designing and seeking approval for its new well site are grossly disproportionate to the actual cost of constructing the well. We have argued that allowing Consumers to include all of these soft costs in rate base would unnecessarily drive up costs to customers, and that Consumers would continue to earn a profit and depreciation on these soft costs for decades. We have argued that in an extraordinary case like this, typical rate base treatment is not appropriate, and that the company should amortize a significant portion of the soft costs over a shorter period of years, without accruing interest. This would allow Consumers to recover those soft costs over a period of years, but not earn a return and annual depreciation on them indefinitely.

We have found very little precedent at the Maine PUC for this unique treatment of soft costs associated with a capital improvement. Thus, if the case proceeds to a hearing before the PUC, followed by briefs and argument, there is no certainty that the Commission will accept our arguments. Obviously the cost of a litigated case will be significant.

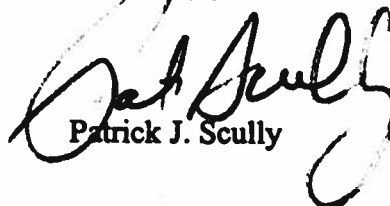
Last week, through a series of negotiations, we reached a tentative settlement with Consumers. Under the terms of the settlement, the original proposed \$90,000 annual Step Two rate increase would be reduced to \$70,000. In addition, the original proposed addition to rate base of over \$500,000 would be reduced to \$360,000. The difference would be amortized over approximately eight years. At the end of those eight years, approximately \$150,000 in soft costs associated with the new well will be completely paid for, and will not continue in rates. Consumers initially would agree only to reduce the Step Two increase to \$75,000. After further discussions, Consumers agreed to a \$70,000 amount, but conditioned its agreement to reduce the annual rate increase to \$70,000 on a vote by the Town not to proceed with any current efforts to pursue acquisition by the Town of the Consumers system in Freeport.

We believe that this proposed settlement is the best achievable resolution for the Town and water system customers in Freeport. If we proceed with litigation before the Maine PUC, we believe it is very unlikely that we could achieve a better result, and very possibly the approved rate increase could be more than the settlement amount. In addition, the Town would incur significant additional legal fees, probably in excess of \$15,000, to litigate the case to conclusion before the PUC. If the Town approves this settlement, its intervention and involvement in the Consumers rate case will have saved customers, between the Step One and Step Two increases, over \$35,000 annually. In addition, by amortizing over \$150,000 in soft costs associated with the

new well, future rates will be substantially lower than they would have been had all those costs been put into rate base. For this reason, we strongly recommend this resolution to the Council.

Please feel free to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Pat Scully", written over the typed name.

Patrick J. Scully

cc: Dale Olmstead, Town Manager  
smith\pjs\Freeport\lt Arsenault

**STATE OF MAINE  
PUBLIC UTILITIES COMMISSION**

**Docket 2003-105**

**CONSUMERS MAINE WATER COMPANY  
Re: Proposed Increase in Rates for its  
Freeport Division**

**"STEP TWO" STIPULATION**

---

It is understood and agreed by and between Consumers Maine Water Company ("Company"), the Office of Public Advocate, the Town of Freeport and the Freeport Water District as follows:

**I. Purpose**

It is the purpose of this Stipulation Agreement to settle all the issues with respect to Step Two of this proceeding, to eliminate the need to hold a hearing and to expedite the Public Utilities Commission's consideration and resolution of this proceeding. The provisions agreed to herein have been reached as a result of information gathered through the discovery process and through discussions and negotiations with the Company.

**II. Procedural History**

On February 14, 2003, Consumers Maine Water Company filed an application for a rate increase, requesting an overall increase in annual revenue for the Freeport Division of \$139,768, which represented a 25.65% increase over pro forma present Freeport revenue of \$544,995. The Company requested the increase in two steps. Step One of the increase was proposed as a \$50,536 increase in revenue, or an increase of 9.27%. Step Two of the increase was proposed as an \$89,232 increase in revenue, or a 16.37% increase. The Company's application for a rate increase was filed using a 2002 actual test year. The Public Advocate, the Town of Freeport, and the Freeport Water District intervened in the proceeding. A Stipulation Agreement resulting in an annual Step One revenue requirement of \$584,995 was approved by the Commission on June 3, 2003. The Step One revenue requirement represented a \$40,000 (or a 7.34%) increase over the 2002 adjusted test-year revenues of



\$544,995. [Or, in the format often requested by the Maine PUC, the Step One revenue requirement as set forth in the Stipulation Agreement represented a \$40,552 (or 7.45%) increase over the 2002 unadjusted test year revenue of \$544,443.]

### **III     Stipulation Provisions**

1.     It is agreed that the record on which the Commission may base its determination in this matter shall consist of this Stipulation Agreement, all data requests and responses thereto, and any other material furnished by the Staff to the Commission, either orally or in writing, at the time of the Commission's consideration of these proceedings.
2.     It is agreed that this Stipulation Agreement shall not be considered legal precedent, nor shall it preclude a party from raising issues addressed herein in any other Commission proceeding or investigation.
3.     As a result of this Stipulation of Step Two of the proceeding, the new annual revenue requirement for the Freeport Division shall be \$654,995. This represents a \$70,000 (or a 12.0%) increase over the Step One revenue requirement of \$584,995.
4.     Rate base allowed for the Freeport Division is \$1,923,032. Rate base associated with the new well for ratemaking purposes is \$360,000. Any costs associated with the new 2003 well exceeding \$360,000 will be recorded as a regulatory asset and amortized as an operating expense over a period not to exceed 10 years.
5.     For the purposes of this proceeding, the capital structure and cost of capital shall be the same as filed by the Company; and those numbers are based on 12/31/01 actual figures, as presented on Exhibit CMW-18.00.
6.     The Freeport Division rate base and revenue allocation factors shown on Exhibit CMW 19.03 have been readjusted based on final Step Two rate base and revenue amounts as reflected in this

stipulation.

7. The Company shall submit to the Commission and to Office of Public Advocate a detail of actual rate case expenses associated with this proceeding once final costs are known.

8. The parties agree that this rate increase will be allocated pro rata across all metered and fire protection classes.

9. The Company shall file with this Stipulation compliance tariffs and a billing analysis showing the new rates. It is agreed that the new tariffs shall become effective on the day of the Commission Order approving this stipulation, but no later than October 15, 2003.

It is agreed that this Stipulation Agreement represents the full agreement between the parties hereto and that rejection of any part of this agreement constitutes rejection of the whole.

**CONSUMERS MAINE WATER COMPANY**

DATED: September 29, 2003

\_\_\_\_\_  
Judy W. Kelley, President

**OFFICE OF THE PUBLIC ADVOCATE**

DATED: September 29, 2003

\_\_\_\_\_  
William C. Black  
Deputy Public Advocate

**TOWN OF FREEPORT & FREEPORT WATER DISTRICT**

DATED: September , 2003

\_\_\_\_\_  
Patrick J. Scully  
Attorney for Town and District

**Planning Board Reorganization  
September 25, 2003**

**The Planning Board recommends to the Town Council that Freeport:**

**A. Create a new Planning Board, that would:**

1. Undertake long-term planning initiatives for consideration by the Town Council and develop new ordinance language to implement those changes as needed.
2. Make recommendations to the Town Council regarding requests for Zoning, Subdivision, and Design Review Ordinance Amendments.
3. Maintain the Comprehensive Plan
4. Encourage citizen participation by the use of public hearings and ad hoc committees (membership approved by the Town Council)
5. The make up of this Board, to the greatest extent possible, should seek to include a variety of persons with skills or interests in planning, public participation, communications, land use regulation, historical preservation, environmental protection and civil engineering, while striving to reflect the diversity of Freeport.

**B. Create a new Project Review Board, that would:**

1. Review and approve residential subdivision proposals
2. Review and approve commercial development site plans
3. Review and approve excavations (gravel pits)
4. Review and approve wireless telecommunications facilities (towers, tower extensions, and existing structures that will be used for mounting antennae)
5. Issue design certificates in the Design Review District
6. The make up of this Board, to the greatest extent possible, should seek to include a variety of persons with skills or interests in historical preservation, environmental protection, architecture, construction, and engineering, while striving to reflect the diversity of Freeport.

**C. Eliminate the Design Review Board**

1. Incorporate the work of the Design Review Ordinance into the Project Review Board.
2. The Design Review Standards of the Ordinance (Chapter 22) should not be weakened.

#### **D. Create a Staff Review Board to handle smaller reviews and projects**

- The Staff Review Board would consist of the Town Planner, Fire Chief, Codes Officer, Town Engineer, Public Works Director, with input from other departments as needed
- It would meet at a regularly scheduled meeting to review projects
- Notice of the meetings would be sent to everyone within 200' of any proposal on the agenda
- meetings would be open to the public
- the Staff Review Board would have the authority to send any project to the Project Review Board if the project appears to be unduly complicated or disputed
- Appeals of a decision of the Staff Review Board would go to the Project Review Board
- All actions taken by the Staff Review Board would be reported to the Project Review Board at their next meeting

The Staff Review Board would be responsible for reviewing and approving:

1. Expansions of buildings and parking lots >200 s.f. <1,000 s.f..
2. Change of use from one permitted use to another, provided no expansions/additions, larger than those allowed within this section, are involved
3. Review filling of land and creation of ponds – on residential property, regardless of size with staff approval and inspection by town engineer,
4. Review filling of land and creation of ponds – commercial property 200 – 600 cu. Yd. of material, both with notice to property owners within 200' (currently any fill or excavation of land under 200 cu. yd. doesn't require PB approval).
5. Renewal of gravel pit operations (every three years).
6. Review and approve wireless telecommunications antennae on existing tower or co-located on a previously approved structure

#### **E. Planning Board responsibilities shifted to the Board of Appeals**

##### **Non-conformance review**

Take over review of change of one non-conforming use to another non-conforming use.

##### **Shoreland Zoning permits**

1. In the RP-1 District, permits for the following uses, general agriculture, non-residential facilities for nature interpretation purposes, public and private recreational areas involving minimal structures, public utilities, filling and earth moving in excess of 15 cubic yards, underground utilities and utility poles, roads to access permitted uses or residential uses.
2. In the Stream Protection District, permits for the following uses: aquaculture, public utilities
3. Waivers of a variety of road standards in shoreland areas.

**F. Planning Board responsibilities shifted to the Code Enforcement Officer**

1. Acceptance of a Soil and Water Conservation Plan for agriculture in shoreland areas tilling > 1 acre or spreading manure, after approval by the Town Engineer
2. Acceptance of erosion control plans for soil disturbance in a shoreland area, after approval by the Town Engineer.
3. Determinations that land being disturbed is adjacent to a property listed on or eligible to be listed on the National Register of Historic Sites.

**G. Redundant Reviews currently heard by both the Coastal Waters Commission and the current Planning Board that would be heard only by the Coastal Waters Commission**

1. Aquaculture
2. Structures extending into the water (piers, wharves, docks)



# TOWN OF FREEPORT

Assessor's Office

30 Main Street, Freeport ME 04032  
865-4743

To: Dale Olmstead, Town Manager

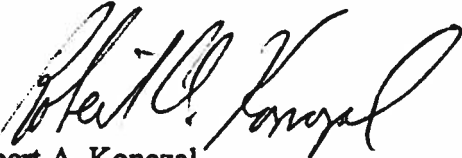
9/24/03

Re: market value of lot fragment abutting 54 South Freeport Road

Hello:

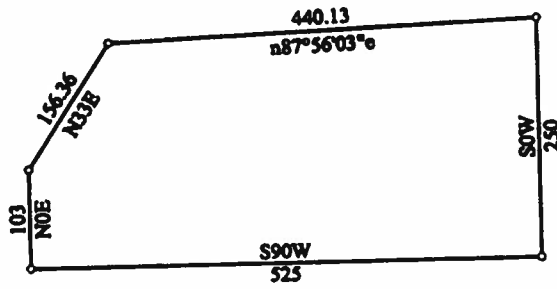
We would estimate the fragment in question to be approximately 1/2 of an acre in size. Typically, the sale of lot fragments between abutters that do not substantially change the character of a lot can bring close to \$5000. This seems to be the case regardless of the size of the lot fragment.

With regards,



Robert A. Konczal  
Town Assessor

RAK/bs



Title:

Date: 09-19-2003

Scale: 1 inch = 200 feet

File:

Tract 1: 2.774 Acres: 120826 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision >1/999999: Perimeter = 1474 Feet

001=S0W 250

003=N0E 103

005=n87.5603e 440.13 ?

002=S90W 525

004=N33E 156.36



09/15/03

To Whom It May Concern:

My name is Micheal L Doten Sr. of 54 Old South Freeport Road. The purpose of this letter is to express my interest in the Town of Freeport owned property that directly abuts my parcel of land. I would be interested in purchasing this parcel of land from the Town should the land be available for sale. The reason for purchasing this property is that it's between my own property and the new road.

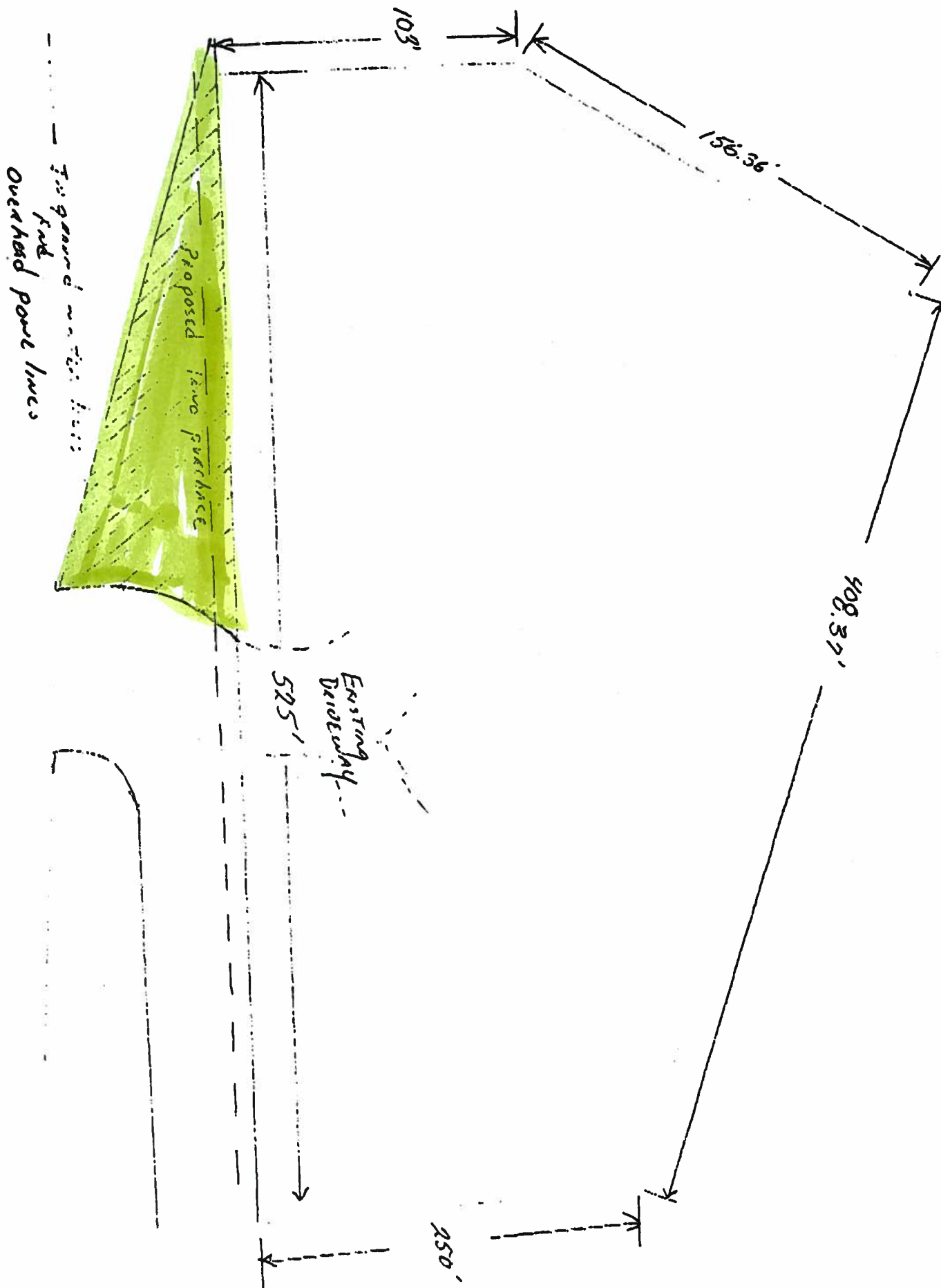
I understand that there are overhead lines and an underground water main that is crossing over the property and would need access at all times.

Thank you for your time, should you have any questions I can be contacted at (207) 865-4412 or my cellular phone number (207) 233-9004.

Sincerely,

---

Micheal L Doten Sr.





## **MUNICIPAL FACILITIES COMMITTEE MINUTES**

**SEPTEMBER 25, 2003 – 5:00 P.M.**

**PRESENT:** Tom Rumpf and Rich DeGrandpre.

The Committee reviewed the updated power point presentation on Soule School. A verification was requested on the potential tax revenue if the property were sold and developed. A public presentation will take place in South Freeport on October 2.

The proposed amendment to the Tax Acquired Property policy was reviewed. The Committee agreed to expanding on b by adding examples of hardship.

**MOTION:** That the proposed policy amendment be recommended to the full Council for consideration subject to the addition to item b. (Rumpf and DeGrandpre – 2 yes)

The request from the Doten family to purchase ½ acre near the Old South Freeport Road was discussed. The parcel is too small to develop and was created as a result of the relocation of the road.

The Committee agreed to recommend sale to the Council assuming the Doten's agree to the Assessor's estimate of value.

Adjourned: 5:55 p.m.