

**FREEPORT TOWN COUNCIL MEETING #19-2000  
OCTOBER 10, 2000  
COUNCIL CHAMBERS 7:00 PM**

**SUMMARY AGENDA**

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- Item #197-00            To consider action relative to the approval of the October 10, 2000 Consent Agenda.
- Item #198-00            To consider action relative to proposed amendments to the Zoning Ordinance concerning Mislocated Building Appeals and Limited Setback Reductions. (Chapter 21) **PUBLIC HEARING.**
- Item #199-00            To consider action relative to proposed amendments to the Freeport Zoning Ordinance concerning dwelling units on all floors in the VC-I Zone. (Chapter 21) **PUBLIC HEARING.**
- Item #200-00            To consider action relative to sponsoring a grant application on behalf of the Town of Freeport Economic Development Corp.
- Item #201-00            To consider action relative to an agreement between the Town of Freeport and Atlantic Cellular Telephone of Delaware, LLC, by and through its agent, AT & T Wireless Services INC., providing for the financial terms of locating a telecommunications tower on municipal property.

**OTHER BUSINESS:**

1. Presentation by the Solid Waste Recycling Committee on the specifications for a new Recycling/Transfer Facility.
2. Recognition of Freeport's Award for the Annual Report.
3. Discussion on FEDC's recommendation on train station development. (Councilor Beaulieu)
4. Confirm Council's intent to provide the public with information on bond issues. (Councilor Soley).
5. Report from Burnett Road Bridge Committee. (Councilor Mann)
6. Discussion on request from Councilor Mann to sponsor a zoning amendment.

**END OF AGENDA**

**AGENDA**  
**FREEPORT TOWN COUNCIL MEETING #19-2000**  
**TOWN HALL COUNCIL CHAMBERS**  
**OCTOBER 10, 2000 - 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:** David Soley, Chairperson, Arnold Road  
John Arsenault, Vice Chairperson, Prout Road  
Genie Beaulieu, Larue Drive  
Edward Campbell, Gay Drive  
Kenneth Mann, Mann Road  
Gloria Fogg DeGrandpre, Wolf Neck Road  
Robert Stevens, Porters Landing

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of #18-2000, September 26 , 2000 Meeting 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#19-2000**  
**OCTOBER 10, 2000**

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Item #197-00	To consider action relative to the approval of the October 10, 2000 Consent Agenda.
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**BE IT ORDERED:** That the October 10, 2000 Consent Agenda Items #195 and #196 be approved.

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Item #198-00	To consider action relative to proposed amendments to the Zoning Ordinance concerning Mislocated Building Appeals and Limited Setback Reductions. (Chapter 21) <b>PUBLIC HEARING.</b>
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**MOTION:** That the Public Hearing be opened.

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

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

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Item #199-00	To consider action relative to proposed amendments to the Freeport Zoning Ordinance concerning dwelling units on all floors in the VC-I Zone. (Chapter 21) <b>PUBLIC HEARING.</b>
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**MOTION:** That the Public Hearing be opened.

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

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

**COUNCIL AGENDA #19-00  
OCTOBER 10, 2000**

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Item #200-00	To consider action relative to sponsoring a grant application on behalf of the Town of Freeport Economic Development Corp.
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**BE IT ORDERED:** That the Town of Freeport approve the request of the FEDC to sponsor a Rural Business Enterprise Grant Application.

**Note:** No Town funds will be required or expended.

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Item #201-00	To consider action relative to an agreement between the Town of Freeport and Atlantic Cellular Telephone of Delaware, LLC, by and through its agent, AT & T Wireless Services INC., providing for the financial terms of locating a telecommunications tower on municipal property.
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**BE IT ORDERED:** That the proposed agreement between AT&T and the Town of Freeport be approved subject to the Planning Board Site Plan approval.

**OTHER BUSINESS:**

1. Presentation by the Solid Waste Recycling Committee on the specifications for a new Recycling/Transfer Facility.
2. Recognition of Freeport's Award for the Annual Report.
3. Discussion on FEDC's recommendation on train station development. (Councilor Beaulieu)
4. Confirm Council's intent to provide the public with information on bond issues. (Councilor Soley).
5. Report from Burnett Road Bridge Committee. (Councilor Mann)
6. Discussion on request from Councilor Mann to sponsor a zoning amendment.

CONSENT AGENDA  
OCTOBER 10, 2000

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Item #195-00      To consider action relative to the approval of Victualer Licenses  
for Crickets Restaurant and the Casco Bay Regional YMCA.

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**BE IT ORDERED:** That the applications issued to the following  
applicants be approved.

Ronald Brook d/b/a Crickets Restaurant, 175 Lower Main Street.  
David Thompson, d/b/a Casco Bay Regional YMCA, 14 Old South  
Freeport Road.

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Item #196-00      To consider action relative to the acceptance of a donation for the  
acquisition of open space

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**BE IT ORDERED:** That a donation from Thomas Rumpf in the  
amount of \$368.73 to provide for the acquisition of open space be  
accepted.

END OF CONSENT AGENDA

**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #19-2000**  
**TOWN HALL COUNCIL CHAMBERS**  
**October 10, 2000 – 7 P.M.**

**CHAIRPERSON'S CALL TO ORDER:**

	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Genie Beaulieu, Larue Drive			X
David Soley, Chairperson Arnold Road	X		
Edward Campbell Gay Drive	X		
John Arsenault, Vice Chair Prout Road	X		
Kenneth Mann Mann Road	X		
Gloria DeGrandpre Wolf Neck Road	X		
Robert Stevens Porters Landing	X (arrived at 7:05 p.m.)		

**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF MEETING #18-2000 HELD ON SEPTEMBER 26, 2000 AND ACCEPT THE MINUTES AS PRINTED.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETING #18-2000 HELD ON SEPTEMBER 26, 2000 AND ACCEPT THE MINUTES AS PRINTED. (Councilors Arsenault & Campbell) (6 Ayes) (1 Excused—Stevens).

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

Peter Constantino wanted the record to reflect that he was not properly informed about the June 20 Council meeting or the June 21 Planning Board meeting pertaining to a zoning change and wants to be sure he will be heard at some point. He has since given the Town Planner his address. Julie Coleman pointed out that she is a new owner in the Winston Hill development and also was not given notice. She voiced her opposition to permitting a tower in a residential neighborhood. Chair Soley clarified that the zoning change was not geared in particular to the Winston Hill neighborhood but rather was a text change to the Town's zoning law. He assured everyone that nothing would be constructed without going through the Planning Board for Site Plan Review and abutters will be notified and given an opportunity to attend the Planning Board's meeting and share their beliefs.

**COUNCIL MEETING#19-2000  
OCTOBER 10, 2000**

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Councilor Mann explained that a public hearing was held on the issue of using public property for something that it was never used for before. He noted that an unusual effort was made to notify people of what was taking place. Notices were posted at the usual places and in the newspaper. Calls were made as well.

**MOVED AND SECONDED:** To close the Public Comment Period (Councilors Beaulieu & Campbell) (7Ayes).

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Item #197-00      To consider action relative to the approval of the October 10, 2000 Consent Agenda

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**BE IT ORDERED:** That the October 10, 2000 Consent Agenda Items #195 and #196 be approved. (Councilors Campbell & Arsenault) **ROLL CALL VOTE:** (7 Ayes).

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Item #198-00      To consider action relative to proposed amendments to the Zoning Ordinance concerning Mislocated Building Appeals and Limited Setback Reductions. (Chapter 21) **PUBLIC HEARING.**

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

Town Planner, Donna Lawson and Codes Enforcement Officer, Fred Reeder explained these amendments. It was noted that the Town Attorney has reviewed and approved them.

**MOVED AND SECONDED:** That the Public Hearing be closed. (Councilors Beaulieu & Campbell) (7 Ayes).

**BE IT ORDERED:** That the proposed amendments to the Zoning Ordinance be approved. (Councilors Beaulieu & Campbell) **ROLL CALL VOTE:** (7 Ayes).

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Item #199-00

To consider action relative to proposed amendments to the Freeport Zoning Ordinance concerning dwelling units on all floors in the VC-I Zone. (Chapter 21) **PUBLIC HEARING.**

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

Town Planner, Donna Lawson, explained the amendments and noted they were approved by the Planning Board. Councilor Beaulieu noted that the Freeport Economic Development Corporation feels this is a good thing to do for Freeport because in order to be a village, residences should be mixed in with businesses.

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

**BE IT ORDERED:** That the proposed amendments to the Zoning Ordinance be approved. (Councilors Arsenault & Campbell) **ROLL CALL VOTE:** (7 Ayes).

Item #200-00

To consider action relative to sponsoring a grant application on behalf of the Town of Freeport Economic Development Corp.

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**BE IT ORDERED:** That the Town of Freeport approve the request of the FEDC to sponsor a Rural Business Enterprise Grant Application.

**Note:** No Town funds will be required or expended. (Councilors Stevens & Beaulieu)

Councilor Beaulieu noting that Michelle Hart is in attendance, explained they would like to apply for this grant because it would give the FEDC the ability to do a feasibility study into business and light industrial parks for Freeport. No FEDC money will be needed. The Town needs to be the vehicle for requesting the grant.

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

Item #201-00

To consider action relative to an agreement between the Town of Freeport and Atlantic Cellular Telephone of Delaware, LLC, by and through its agent, AT & T Wireless Services INC., providing for the financial terms of locating a telecommunications tower on municipal property.



**COUNCIL AGENDA #19-00  
OCTOBER 10, 2000**

**BE IT ORDERED:** That the proposed agreement between AT&T and the Town of Freeport be approved subject to the Planning Board Site Plan approval. (Councilors Mann & Stevens)

Chair Soley mentioned that this was not set up as a public hearing but people in the audience could share their views. Barry Hobbins, Attorney, representing Atlantic Cellular Telephone of Delaware, LLC, a subsidiary of AT&T Wireless Services, pointed out that a lease agreement is the first process that needs to be approved. It is conditioned upon whether they get approval from the Planning Board but they will do everything they can to meet all the requisites and requirements of the Town of Freeport in order to locate a telecommunications tower on municipal property. He noted that this is not the forum to argue that this is not the perfect site or that it meets all the Ordinance requirements. He offered to answer questions.

Mr. Olmstead added that the financial terms agreed upon are superior. Chair Soley clarified that towers are coming to Freeport and while the Council cannot prevent them from coming, it can regulate them. He mentioned that this Council has worked very hard to find alternative means of revenue so as not to rely as heavily on property taxes as other communities.

Julie Coleman, Tom Coleman, Kerck Kelsey, Mike Puckett and Henry Thomas shared their concerns and views. Mr. Hobbins answered questions and offered to bring the concerned neighbors to other sites so that they can view them for themselves. Chair Soley assured everyone that all of the issues brought up tonight will be addressed at the Planning Board. Councilor Beaulieu noted that AT&T cannot go to the Planning Board without a lease. More discussion followed and some Councilors noted that more time is needed.

**MOVED AND SECONDED:** To table this matter until the next Council meeting. (Councilors Stevens & Mann) **HAND VOTE:** (3 Ayes—DeGrandpre, Mann & Stevens) (4 Nays—Campbell, Beaulieu, Arsenault & Soley).

**ROLL CALL VOTE:** (4 Ayes—Campbell, Beaulieu, Arsenault & Soley) (3 Nays—DeGrandpre, Mann & Stevens)

Chair Soley suggested that propertyowners give their name and address to the Town Planner.

**MOVED AND SECONDED:** To authorize the Town Manager to enter into a contract with Atlantic Cellular Telephone of Delaware, LLC (Councilors Campbell & Beaulieu) (4 Ayes—Campbell, Beaulieu, Arsenault & Soley) (3 Nays—DeGrandpre, Mann & Stevens).

## **OTHER BUSINESS:**

Discussion on request from Councilor Mann to sponsor a zoning amendment. Brian Moore explained that his mother, Adelaide Moore, wants to divide her in-town lot which has two zones. It was the consensus of the Council that they do not need to vote on this since the Planning Board has this item on its October 16 meeting agenda to look at a line change or text change.

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Presentation by the Solid Waste Recycling Committee on the specifications for a new Recycling/Transfer Facility—Mr. Olmstead explained that the voters approved spending \$400,000 to upgrade this facility last June. Jim Cassida proceeded to give a presentation. While he did not have any cost estimates, he offered to return with estimates. Bids will be collected in November and December and construction will begin in the spring.

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Staples Point Road—Mr. Olmstead noted that bids will be opened tomorrow on the Staples Point Road and assuming they are within budget, construction will start this fall.

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Discussion on FEDC's recommendation on train station development—Councilor Beaulieu updated Councilors on a meeting she attended with Commissioner Melrose. FEDC is willing to be in charge of overseeing the train station development and bringing the information back to the Council. She threw this open for discussion. Mr. Olmstead noted that FEDC is the logical lead party. Councilor Mann pointed out that FEDC meets privately without public notice and there will be a lot of public money involved. Councilor Beaulieu assured the Council that no decisions will be made by the FECD but rather they would serve as the project leader. Discussion followed.

**MOVED AND SECONDED:** That FEDC will take the lead to prod the Council and Town to move this project along with the understanding that no decisions will be made. (Councilors Stevens & Campbell) (7Ayes).

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Report from Burnett Road Bridge Committee. Councilor Mann noted that Maurice Hancock, Ron Smith and Julie Nesbit are in attendance tonight. They feel the vote will be close. Should the referendum fail, the committee wants to make it clear that it was never their intent to end up with no bridge at all. They would like the Council to consider alternatives should the referendum fail. Mr. Hancock echoed what Councilor Mann said. Chair Soley wanted voters to correctly understand that a second "no" vote will ultimately mean that the road will be closed to vehicular traffic. Discussion followed.

**MOVED AND SECONDED:** To take up an item not on the printed agenda. (Councilors Campbell & Arsenault) (5 Ayes) (2 Nays—Mann & DeGrandpre).

**MOVED AND SECONDED:** That the Burnett Bridge Committee be disbanded. If the referendum does not pass, and if in the future another referendum question needs to be put out, a new bridge committee should be appointed and the new bridge committee should include members from all areas of town. (Councilors Campbell & Arsenault)

More discussion followed.

(4 Ayes—Campbell, Arsenault, Beaulieu & Soley) (3 Nays—Mann, DeGrandpre & Stevens).

Chair Soley thanked the Bridge Committee for all the work they did.

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Recognition of Freeport's Award for the Annual Report—Mr. Olmstead advised that Freeport won a second place award called a "Superior Award" in the 2000 MMA Annual Report Competition. It will be hung outside the Council Chambers. He praised Councilor Beaulieu and Kelly Profenno for their contributions. He advised that Mary Lou Halla and Councilor Beaulieu have agreed to work on this year's annual report. Input from school children will be used this year as well.

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Council's intent to provide the public with information on bond issues—Mr. Olmstead explained that the Town will be mailing out concise information to voters to give them plenty of time to digest it. It will be mailed to households. Councilors concurred that the mailer should be mailed.

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Councilor Beaulieu advised that the Traffic and Parking Committee has broadened the scope of the Exit 20 beautification project and the Council will be hearing more about a private Beautification Trust formed. They are beginning to identify areas such as Exit 19 and 20, Bow Street Park, West Street Park, the corner of Bow and Main as well as other areas. They already have an offer of a donation as of January 1. They will most likely be coming to the Council to ask for monies out of the Traffic and Parking reserve account.

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

**MOVED AND SECONDED:** to enter into Executive Session and discuss the acquisition of property by the Town of Freeport. (Councilors Campbell & Arsenault) (7 Ayes).

**MOVED AND SECONDED:** to reconvene (Councilors Campbell & Beaulieu) (7 Ayes)

**MOVED AND SECONDED:** To adjourn at 10:30 p.m. (Councilors  
Stevens & Arsenault) (7 Ayes).

Respectfully Submitted,



Sharon Coffin  
Council Secretary

Approved meeting #19-20.  
Item # 198-00  
Oct. 10, 2000

*Adopted*  
PROPOSED AMENDMENT  
FREEPORT ZONING ORDINANCE  
CHAPTER 21

Article VI ADMINISTRATIVE PROVISIONS

REVISED 9-28-00

Section 601 Enforcement

E. ....

If any part of the structure is proposed to be located closer than 5 feet to the minimum front, side, rear or shore setbacks required by the applicable zoning district regulations; or if the Codes Enforcement Officer determines that special conditions such as complex curves in the property lines, or other unusual features of lot shape or topography, the Codes Enforcement Officer may require that the foundation be set and pinned by a professional land surveyor.

G. Board of Appeals:

2. Powers and Duties . . .

d. ~~(2) An application for a limited setback reduction shall be accompanied by a standard boundary survey showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. The Codes Enforcement Officer may waive the requirement of the survey if he or she determines, in his or her sole discretion, that the locations of the lot lines relevant to the request for a limited setback reduction can be determined accurately without a survey.~~

(3) (2)

(4) (3)

4. Appeals Procedure . . .

b. The applicant for a variance or a limited setback reduction must present plans drawn to scale showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. Upon review of the application, the Codes Enforcement Officer

PROPOSED AMENDMENTS  
FREEPORT ZONING ORDINANCE  
CHAPTER 21

Section 601

may require the applicant to provide a standard boundary survey showing the foregoing information if the Codes Enforcement Officer determines that the locations of the lot lines relevant to the request for a variance or a limited setback reduction cannot be determined accurately without a survey. In addition, the Board of Appeals, upon review of the application, may require a standard boundary survey and additional information such as, but not limited to, copies of recorded deeds and such other materials as the Board deems necessary to render its decision. The applicant is ultimately responsible for providing documentation and verification of the facts asserted by the applicant, and any decision of the Board based on incorrect or inaccurate information provided by or on behalf of the applicant may be declared invalid by the Board and neither the Board nor the Town shall be estopped from applying and enforcing the provisions of this Zoning Ordinance based on correct and accurate information subsequently discovered.

~~b.~~  
~~c.~~  
~~d.~~  
~~e.~~

c.  
d.  
e.  
f.

g. When a building or structure is erected pursuant to a variance or a limited setback reduction approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.

~~f.~~ h.

Approved: Meeting # 19-200  
Item # 199-00  
Oct. 10, 2000

*Adopted*

Sept. 20, 2000

PROPOSED AMENDMENTS  
FREEPORT ZONING ORDINANCE  
CHAPTER 21

Section 201. General Restrictions

- I. If residential and non-residential uses are located on the same lot, the area of the lot must equal or exceed the sum of the minimum lot sizes required for each user, except in the Village District I (V-I), Village Commercial District I (VC-I) and the Village Commercial District II (VC-II), and as provided in Section 402.II.C. below.

Section 413. Village Commercial "VC-I"

A. Purpose:

It is the intent of this District to concentrate commercial activity within the Village Center.

B. Permitted Uses:

1. Retail Trade
2. Commercial Recreation, Indoor
3. Business and Professional Offices
4. Commercial Sales and Services
5. Municipal Facility
6. Private Assembly
7. Public Assembly - Indoor
8. Public Utilities
9. Schools
10. Religious Institution
11. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to site review regardless of size:

12. Multiple Family Dwelling ~~containing from 3 to 6 units per building,~~
13. ~~Dwelling Multiple Family Units on second and/or third floors~~

Renumber 14 through 23 to 13 through 22.