

MINUTES

Meeting: #10-74
 Date: May 7, 1974
 Time: 7:30 P.M.
 Place: Council Room

TOWN OF FREEPORT

MEETING OF THE FREEPORT TOWN COUNCIL

X	Regular
	Special

Chairman's Call to Order

Roll Call of Members

	Present	Absent	Excused
Arthur Palmer, Chairman, Pleasant Hill	X		
Edward Bonney, Vice Chairman, Nathan Nye St.	X		
Edgar Leighton, Independence Drive	X		
David Thompson, Beech Hill Road	X		
Frank Small, Bow Street	X		
Robert Furtney, Porters Landing	X		
Edwin Fogg, Old County Road	X		

Moved and Seconded - To waive reading of the minutes of Meeting No. 9-74 held April 16, 1974 and accept them as printed.
 (Messrs. Fogg & Thompson) (7 Yes) (0 No).

Moved and Seconded - That the Council recess and the Licensing Board convene. (Messrs. Small & Bonney) (7 Yes) (0 No).

Roll Call of Members

	Present	Absent	Excused
Arthur Palmer, Chairman, Pleasant Hill	X		
Edward Bonney, Vice Chairman, Nathan Nye St.	X		
Edgar Leighton, Independence Drive	X		
David Thompson, Beech Hill Road	X		
Frank Small, Bow Street	X		
Robert Furtney, Porters Landing	X		
Edwin Fogg, Old County Road	X		
Bruce Benway, Treasurer, South Freeport	X		
Phyllis Roy, Town Clerk, Park Street			X

Moved and Seconded - That the following Victualer's Licenses be subject to public hearing:

Miles Baker Jr. d/b/a Clara & John's, Yarmouth Road
 G. Frank & Florris L. Bly, d/b/a Arthur's Market, South St.
 Casco Bay Trading Post Inc., d/b/a Snack Bar, Yarmouth Road
 Edward Collett, d/b/a The Red Wheel, Yarmouth Road
 Ronald Cummings, Florida Lake, Wardtown Road
 Donna Day, d/b/a Julie's, 57 Main St., Freeport
 Frederick A. Downing, d/b/a Lola's Lunch, Route 1
 David Goldrup, d/b/a Desert of Maine Inc., Desert Road
 Perley E. & Donald W. Hood, d/b/a Falcon Club, 16 Mill St.
 Francis James, d/b/a Freeport Variety, Main St.
 William D. Ormsby, d/b/a Falcon Restaurant, 8 Bow St.
 William D. Ormsby, David G. Coffin and John W. Coffin, d/b/a Harraseeket Lunch
 Malcolm Pohle, d/b/a Freeport Country Club, Old County Road
 Sam's Food, d/b/a Mario's of Freeport, 7 Main Street
 Edward Simones & Claude Cloutier, d/b/a Jolly Post, 404 Lisbon St. Lewiston
 James Storer, d/b/a The Sundae Barn, Mallett Drive
 Richard M. Wagner, d/b/a Derosier's Market, Main St.

(Messrs. Bonney & Fogg) (8 Yes) (0 No).

Moved and Seconded - That the second reading of the Victualer's Licenses be waived. (Messrs. Small & Thompson) (8 Yes) (0 No).

Moved and Seconded - That the public hearing on the Victualer's Licenses as read be closed. (Messrs. Bonney & Thompson) (8 Yes) (0 No).

ITEM NO. 302 Be It Ordered - That the Victualer's Licenses as read above be granted.
 (Messrs. Bonney & Leighton) (8 Yes) (0 No).

Moved and Seconded - That the following Special Amusement Permit for Entertainment and Application for a Restaurant Spirituous & Vinous and Malt License be subject to public hearing:

William D. Ormsby, d/b/a Falcon Restaurant,
 8 Bow Street.

(Messrs. Leighton & Small) (8 Yes) (0 No).

Moved and Seconded - That the public hearing be closed.
 (Messrs. Small & Leighton) (8 Yes) (0 No).

Be It Ordered - That a Special Amusement Permit for Entertainment and an Application for a Restaurant Spirituous & Vinous and Malt License be granted.

(Messrs. Bonney & Small) (7 Yes) (0 No)
 (1 Abstention, Mr. Thompson).

Moved and Seconded - That the Licensing Board be adjourned and the Council reconvene. (Messrs. Small & Bonney) (8 Yes) (0 No).

Moved and Seconded - That the Proposed Supplemental Appropriation Ordinance for School Construction be subject to public hearing. (Messrs. Leighton & Thompson) (7 Yes) (0 NO).

Moved and Seconded - That the public hearing be closed. (Messrs. Fogg & Bonney) (7 Yes) (0 No).

ITEM NO. 303 The Town of Freeport Hereby Ordains - The following ordinance:

Supplemental Appropriation Ordinance
for School Construction

The sum of \$68,000 is hereby appropriated for the purpose of constructing additions to the Freeport High School and Morse Street School. To meet this appropriation, the Treasurer is authorized to expend said sum from anticipated additional State of Maine school construction aid revenues. The effective date of this ordinance shall be June 9, 1974.

(Messrs. Bonney & Leighton) (7 Yes) (0 No).

ITEM NO. 304 The Town of Freeport Hereby Ordains - The following emergency ordinance:

Loitering Ordinance

Article I: Title: This ordinance shall be known and cited as the Loitering Ordinance of the Town of Freeport.

Article II: Loitering: It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tend to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such

public street or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon or thereto.

Article III: Police Order to Disperse: When any person causes or commits any of the conditions enumerated in Article II herein, a police officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Ordinance.

Article IV: Any person who violates any of the provisions of this Ordinance shall, upon conviction therefor, be subject to a fine of up to \$100.00 for each violation, which fine shall enure to the Town of Freeport.
(Messrs. Leighton & Small) (7 Yes Messrs. Leighton & Small) (5 No).

Moved and Seconded - That the second reading of the Loitering Ordinance be waived. (Messrs. Small & Leighton) (7 Yes) (0 No).

ITEM NO. 305 Be It Ordered - That a public hearing be held on the proposed Loitering Ordinance at 7:30 P.M. in the Council Room of the Municipal Building on May 21, 1974.

Be It Further Ordered - That 60 copies of the proposed ordinance be printed and that they be divided equally between the Town Clerk's Office, the B. H. Bartol Library and the municipal building for pickup by citizens.
(Messrs. Bonney & Thompson) (7 Yes) (0 No).

The Council Chairman relinquished the gavel to the Vice Chairman for the Council's consideration of Items No. 306 and 307 due to a possible conflict of interest.

ITEM NO. 306

WHEREAS, the Town Council, acting as the Municipal Officers of the Town of Freeport, pursuant to Title 12 M.R.S.A. §4701 et seq. (Wetlands Control Act) received an application submitted by Ring's Marine Service, Inc. for a permit to construct wharves and piers, a stone bulkhead twenty-five feet high, a travel lift pier, other ramps, floats and docks, and to dredge approximately 14,000 cubic feet of material and to fill within the wetlands located in the Cushing Briggs area on property currently owned by Richard Reardon and identified as Map 4 Lot 11 on the Property Assessment Maps of the Town of Freeport, and

WHEREAS, The Municipal Officers conducted a public hearing on the above described projects on March 19, 1974 which hearing was adjourned to April 3, 1974, both commencing at 7:30 P.M. in the All-Purpose Room of the Freeport High School, according to the requirements prescribed in M.R.S.A. 12 §4701 et seq. After review and based upon all oral and documentary evidence entered in to the record of this proceeding, the Municipal Officers make the following findings, decision and order:

1. The applicant has failed to sustain its burden of proof that the proposed construction would not adversely affect the value and enjoyment of the property of abutting owners.
2. The applicant has failed to introduce sufficient evidence that necessary controls will exist for the noise which is likely to be produced by such construction and operation of the facilities.
3. The applicant offered insufficient documentation to show that studies, research or other investigations have been conducted with regard to the conservation of wildlife and estuarine or marine fisheries in the area so as to prove that the proposed project will not be damaging to the wildlife and estuarine or marine fisheries.
4. The applicant has failed to provide sufficient definitive information as to the cost of the completed project and has failed to introduce satisfactory evidence of financial capability to complete the project. Commencement of the project construction, absent such information and evidence regarding assurances of financial capability, would pose a threat to the public safety, health and welfare that the project, once commenced might never be completed due to a lack of sufficient financial capability or might be constructed with insufficient regard for all safeguards necessary.
5. The proposed project includes plans for the construction of a 25 foot high stone bulkhead. The dredging allegedly will take place on the river side of this bulkhead and the filling will take place on the land side. The applicant failed to show that proper engineering studies have been conducted so as to prove that the construction of said bulkhead is viable on the present foundation, that the applicant has the technical expertise to construct the bulkhead or that the bulkhead when completed will in fact retain the filled materials without collapsing, thus posing a significant threat to public safety.

6. The applicant has failed to prove that its dredging operation will not cause harm to adjacent and nearby tidal areas by the suspension and redistribution of solids. This is seen as being particularly critical in view of the close proximity of the public swimming area at Sandy Beach.

THEREFOR, Be It Ordered - That the application for a permit to build, dredge and fill in a wetlands area received by Registered Mail postmarked February 21, 1974 from Ring's Marine Service, Inc. be denied. (Messrs. Leighton & Thompson) (6 Yes) (0 No) (1 Abstention, Mr. Palmer).

Moved and Seconded - That the second reading of the Wetlands Permit order be waived. (Messrs. Thompson & Fogg) (7 Yes) (0 No).

ITEM NO. 307

WHEREAS, The Town Council, acting as the Municipal Officers of the Town of Freeport, pursuant to Title 38 M.R.S.A. §1021 et seq. (Wharves and Fish Wiers Act) have reviewed an application submitted by Ring's Marine Service, Inc. for a permit to locate wharves which would extend into the Harraseeket estuary approximately 250 feet from high water mark, said wharves to be located in the Cushing Briggs area on property currently owned by Richard Reardon and identified as Map 4 Lot 11 on the Property Assessment Maps of the Town of Freeport. Based upon its review of the evidence submitted, the Municipal Officers make the following findings, decision and order:

1. The applicant has failed to sustain the burden of proof with engineering data sufficient to demonstrate conclusively that necessary pilings could be installed or maintained so as to retain the proposed wharves and thus prevent an obstruction to navigation or an injury to the rights of others.

2. The applicant has failed to sustain its burden of proof that the rights of others would not be injured with respect to the use of nearby Sandy Beach for swimming, the damage to abutting property caused by increased boating traffic, and the effects on area residents from the potential hazard of mud slides due to a failure of the proposed 25 foot retaining wall to be built atop the currently placed stone wall.

THEREFOR, Be It Ordered - That the application for a permit to construct the above described wharves be denied. (Messrs. Leighton & Thompson) (6 Yes) (0 No) (1 Abstention, Mr. Palmer).

Moved and Seconded - That the second reading of the Wharves and Wiers Permit order be waived. (Messrs. Thompson & Small) (7 Yes) (0 No).

The Vice Chairman returned the gavel to the Chairman for the conduct of the remaining business.

ITEM NO. 308 Be It Ordered - That the Town Manager's Appointment of Frank E. Wright as Dog Officer be confirmed. (Messrs. Fogg & Leighton) (7 Yes) (0 No).

ITEM NO. 309 Whereas, Mrs. R. Lynne Briggs served as Secretary to the Town Council from January 1, 1973 to April 16, 1974, and

Whereas, Mrs. Briggs' performance as Council Secretary demonstrated her ability and willingness to accept and successfully carry out duties in service to the Town of Freeport,

Therefore, Be It Resolved, That the Freeport Town Council publically express to Mrs. R. Lynne Briggs its sincere appreciation for her service to the Town of Freeport while acting as Council Secretary.

Be It Ordered - That the resignation of Mrs. R. Lynne Briggs be accepted.

Be It Further Ordered - That a letter of regret be sent to Mrs. Briggs by the Town Manager.

(Messrs. Small & Thompson) (7 Yes) (0 No).

Moved and Seconded - That the second reading of the Resolution be waived. (Messrs. Bonney & Leighton) (7 Yes) (0 No).

ITEM NO. 310 Be It Ordered - That the resignation of Mrs. Sally Rand from the Conservation Commission be accepted

Be It Further Ordered - That a letter of regret be sent to Mrs. Rand by the Town Manager.

(Messrs. Thompson & Bonney) (7 Yes) (0 No).

ITEM NO. 311 Be It Ordered - That the price for a voting list be set at \$25.00 which shall accrue to the Town of Freeport.
(Messrs. Leighton & Small) (7 Yes) (0 No).

ITEM NO. 312 Be It Ordered - That the Town Manager be authorized to sign and execute a Release Deed from the Town of Freeport to Ralph Prout and Evelyn Stilkey to release a portion of tax-acquired property reference as Map 18 Lot 49 on the Property Maps of the Town of Freeport.
(Messrs. Small & Thompson) (7 Yes) (0 No).

Be It Ordered - That the Town Manager be authorized to sign and execute a Release Deed from the Town of Freeport to Robert and Margaret Westfall to release a portion of tax-acquired property referenced as Map 17 Lot 33C on the Property Maps of the Town of Freeport.
(Messrs. Small & Thompson) (7 Yes) (0 No).

Moved and Seconded - That the second reading of the orders concerning the release of tax-acquired property be waived.
(Messrs. Small & Furtney) (7 Yes) (0 No).

Moved and Seconded - That Item No. 284 be brought from the table. (Messrs Bonney & Fogg) (7 Yes) (0 No).

ITEM NO. 284 The Town of Freeport Hereby Ordains - The Freeport Harbor Commission Ordinance introduced at Meeting No. 6-74 held March 19, 1974.
(Messrs. Leighton & Thompson) (7 Yes) (0 No).

Moved and Seconded - The meeting be adjourned at 9:15 P.M..
(Messrs. Small & Thompson) (7 Yes) (0 No).

The foregoing was recorded by:

Joseph Downey
Acting Council Secretary

Distribution:

Councilmen
F. Paul Frinsko
Town Clerk

Bookkeeper
Library
Highway Dept.

Police Dept.