

M I N U T E S

FREEPORT TOWN COUNCIL MEETING #11-89

FREEPORT TOWN HALL COUNCIL CHAMBERS

MAY 2, 1989

7:36 P.M.

X Regular

— Special

Chairman's Call to Order Present Absent Excused

John A Nelson, Chairman X
Church Street

Robert Stevens, Vice-Chair. X
Porters Landing

William Grady, X
Guptill Ave. Ext.

Kirk Goddard, X
Mast Landing

John Paterson, X X
Flying Point

Edward Campbell, X
Gay Drive

Edward Bradley X
Flying Point

Moved and Seconded - To waive the reading of the Minutes of Meeting #10-89 held April 25, 1989, and accept the Minutes as printed.

(Councilors Campbell & Goddard) (4 Ayes) (0 Nays)

Moved and Seconded - That the Council adjourn and the Licensing Board convene.

(Councilors Goddard & Grady) (4 Ayes) (0 Nays)

Roll Call of Members

	Present	Absent	Excused
John A Nelson	X		
Robert Stevens	X		
William Grady	X		
Kirk Goddard	X		
John Paterson		X	X
Edward Campbell	X		
Edward Bradley		X	X
Mary Wescott	X		
Dale Olmstead	X		

Moved and Seconded - That the following applications for Victualer Licenses be subject to Public Hearing:

Daniel R & Susan S COUGHLIN, d/b/a MR. BAGEL, 128 Main Street, and

Francis JOHNSON, d/b/a FREEPORT VARIETY, 9 Main Street.

(Members Goddard & Grady) (7 Yes) (0 No)

Moved and Seconded - That the Public Hearing be closed.

(Members Goddard & Grady) (7 Yes) (0 No)

ITEM #63-89

Be It Ordered - That the applications for Victualer Licenses issued to the above named applicants be approved.

(Members Goddard & Grady) (7 Yes) (0 No)

Moved and Seconded - That the Licensing Board adjourn and the Council reconvene.

(Members Goddard & Grady) (7 Yes) (0 No)

Moved and Seconded - That the following reapplication for a Malt and Vinous License be subject to Public Hearing:

Michael Marino, d/b/a THE LOBSTER COOKER, 39 Main Street.

(Councilors Grady & Goddard) (4 Ayes) (0 Nays)

Moved and Seconded - That the Public Hearing be closed.

(Councilors Grady & Campbell) (4 Ayes) (0 Nays)

ITEM #64-89

Be It Ordered - That the reapplication for a Malt and Vinous License issued to Michael Marino, d/b/a THE LOBSTER COOKER, 39 Main St., be approved.

(Councilors Grady & Goddard) (4 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$37,500.00 to provide for the Design Phase of the Elementary School Project be subject to Public Hearing.
(Councilors Campbell & Goddard) (4 Ayes) (0 Nays)

For the record, Councilor Bradley is in attendance at 7:48 P.M.

Moved and Seconded - That the Public Hearing be closed.
(Councilors Campbell & Goddard) (5 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$37,500.00 for the Design Phase of the Elementary School Project be tabled until May 16, 1989.
(Councilors Campbell & Goddard) (5 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Coastal Waters Ordinance be subject to Public Hearing.
(Councilors Bradley & Grady) (5 Ayes) (0 Nays)

For the record, Councilor Stevens is in attendance at 8:04 P.M.

Moved and Seconded - That the Public Hearing be closed.
(Councilors Grady & Stevens) (6 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Coastal Waters Ordinance be tabled until May 16, 1989.
(Councilors Grady & Stevens) (6 Ayes) (0 Nays)

ITEM #67-89

Be It Ordered - That the Town of Freeport accept the following sums, to be safely invested and forever held in trust, the income therefrom to be used for the Perpetual Care of the following cemetery plots:

GROVE CEMETERY

Daniel Harris Lot 57	\$200.00
Arnold Sturtevant Lot 184	200.00
George Ayer Lot 116	200.00
Tyler Lowell Lot 116	200.00
Alice W Hilton (Etta M Welch) Lot 23	200.00
Reginald A & Dorothy Marston	200.00
Rosemary Beauleau Lot 171	200.00

BURR CEMETERY

William F Britton Lot 114	200.00
David Cunningham Lots 11A/165	300.00
Angela Truman Lot 193	200.00
Ralph Downing Lot 219	200.00
Earl McCarthy Lots 150/151	400.00
Henry M Barrera Lot 187	200.00
Stella Brown Lot 65B	200.00
Thomas Farley Sr Lot 79B	200.00
Ernest Cray	200.00
Cedric Libby Sr Lot 190	200.00
Cedric Libby Jr Lot 191	200.00

Continued -

Public Hearing May 2, 1989

PROPOSED

APPROPRIATION ORDINANCE FOR \$37,500

TO PROVIDE FOR THE DESIGN PHASE OF THE ELEMENTARY SCHOOL PROJECT

The Town of Freeport Hereby Ordains That a sum not to exceed Thirty Seven Thousand Five Hundred Dollars (\$37,500) is hereby appropriated for the purpose of the Design Phase of the Elementary School Project, and to meet said appropriation, the Chairman of the Town Council and the Town Treasurer are authorized to issue general obligation securities of the Town of Freeport in a total principal amount not to exceed \$37,500, with discretion to fix the date, place of payment, forms, and other details of the securities, and providing the sale thereof delegated to the Chairman of the Town Council and the Town Treasurer.

ITEM #67-89 continued -

SOUTH FREEPORT CEMETERY

Richard Wengren Lots 22/23 NS	\$400.00
Dr Fred Sayles	200.00
Elizabeth L Hurd Lot 4A NS	200.00

WEBSTER CEMETERY

Mark Merrill Lot 141B	200.00
Raymond Estabrook Lot 132B	200.00

FLYING POINT CEMETERY

Phyllis Nolan Lot 34	200.00
Christine Wolf	200.00

(Councilors Stevens & Bradley) (6 Ayes) (0 Nays)

Moved and Seconded - To table Item #68-89 (Action relative to submitting to Public Referendum a proposed Appropriation Ordinance for \$300,000.00 for the purchase of property known as Hedgehog Mountain - Map 22 Lot 68) until the next regular council meeting of May 16, 1989.

(Councilors Stevens & Campbell) (6 Ayes) (0 Nays)

ITEM #69-89

Be It Ordered - That the Town Manager be authorized to issue a Quit Claim Deed releasing any interest of the Town of Freeport for the following property for Tax Years 1976, 1978, 1980, 1983, 1984 and 1985 -

Town of Freeport Tax Map 17 Lot 16A

To: Carl A and Marilyn L DODGE.

This property is located on the Bragdon Rd.

(Councilors Grady & Stevens) (6 Ayes) (0 Nays)

Moved and Seconded - That the proposed amendments to the Freeport Zoning Ordinance be separated into the two sections - Section 203.A.5. dealing with the Performance Bond, and Section 422.D.I. Island District, and vote separately on the two proposed amendments. (Councilors Stevens & Campbell) (6 Ayes) (0 Nays)

ITEM #56-89

Be It Ordered - That the proposed amendment to the Freeport Zoning Ordinance:

Section 203.A.5.

"All requests for amendments or changes that propose new construction shall be accompanied by a Site Plan drawn in accordance with Site Plan Review requirements; the area shall not be rezoned unless the petitioner has posted a Performance Bond equal to at least 25% of the estimated cost of the development. The Bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner within two years of the effective date of the rezoning or fails to construct the project in accordance with the final Site Plan approved by the Planning Board, except that the Town Council, upon a showing by the petitioner that due to extenuating circumstances beyond the petitioner's control, it is no longer economically or technically feasible to construct the development, may waive payment and release the Bond."

as submitted to Public Hearing on April 18, 1989, be approved.

(Councilors Stevens & Goddard) (4 Ayes)
(2 Nays, Councilors Grady & Stevens)

ITEM #56-89

Be It Ordered - That the proposed amendment to the Freeport Zoning Ordinance:

Section 422. Island District - ID

D.1. "Only one dwelling unit may be maintained on each Island or lot of record existing as of January 1, 1979. Only one accessory structure and one pier, dock or wharf may be maintained on each Island or lot of record existing as of January 1, 1979. In addition, an outdoor swimming pool may be maintained on each lot of record on any island connected to the mainland by a causeway."

as submitted to Public Hearing on April 18, 1989, be approved.

(Councilors Stevens & Goddard) (6 Ayes) (0 Nays)

Adopted

~~PROPOSED~~ AMENDMENTS TO THE FREEPORT ZONING ORDINANCE

Sec. 203. Changes and Amendments

A.

- (5) All requests for amendments or changes that propose new construction shall be accompanied by a site plan drawn in accordance with Site Plan Review requirements; the area shall not be rezoned unless the petitioner has posted a performance bond equal to at least 25% of the estimated cost of the development. The bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner within two years of the effective date of the rezoning or fails to construct the project in accordance with the final site plan approved by the Planning Board, except that the Town Council, upon a showing by the petitioner that due to extenuating circumstances beyond the petitioner's control it is no longer economically or technically feasible to construct the development, may waive payment and release the bond.

Sec. 422. Island District - ID Add:

- D.1. Only one dwelling unit may be maintained on each Island or lot of record existing as of January 1, 1979. Only one accessory structure and one pier, dock or wharf may be maintained on each Island or lot of record existing as of January 1, 1979. In addition, an outdoor swimming pool may be maintained on each lot of record on any island connected to the mainland by a causeway.

Moved and Seconded - To table Item #57-89 (Action relative to a proposed Ordinance Regulating Subsurface Wastewater Disposal) indefinitely.

(Councilors Stevens & Grady) (6 Ayes) (0 Nays)

Other Business:

1. Town Manager Olmstead presented the Fiscal Year 1990 Operating Budget to the Council.
2. The Millard A and Enid M Crooker Scholarship Fund left \$10,000 to be used annually for graduates of Freeport High School to continue on to a secondary level; Town Manager Olmstead asked the Council how should we deal with this as the request was too general as how the funds would be administered; Council decided "Let the High School develop a process for application and for distributing the funds."
3. A gentlemen has approached the Town Manager about planting 5 white birch, 5 red pine and 5 white pine at a price of \$640 including planting them. Council suggested that the Town Manager and Vice Chairman work out some kind of a deal to dress up around the Municipal Building and at a lesser cost.
4. Vice Chairman Stevens inquired where the spending cap petition was at this point; Town Manager Olmstead explained that on the day the spending cap revised language was presented to the Town Clerk, the Town Clerk mailed it to Paul Frinsko's office pending word from him. Councilors were split as to how they as a body would approach the spending cap or act individually; they were not sure they would take an active role one way or the other in promoting or not promoting the spending cap.
5. Councilor Bradley brought up the idea of hiring a consultant to establish community leaders who will work to get the community involved in the budget process and property tax reform issues.

Moved and Seconded - That the Council enter into Executive Session with the Superintendent of Schools and the Members of the Elementary School Building Committee to discuss the potential acquisition of property, and to discuss personnel matters.

(Councilors Stevens & Grady) (6 Ayes) (0 Nays)

Moved and Seconded - That the Council reconvene.

(Councilors Grady & Campbell) (6 Ayes) (0 Nays)

Moved and Seconded - That the Council adjourn at 11:49 P.M.

(Councilors Grady & Campbell) (6 Ayes) (0 Nays)

The foregoing was recorded by:

Mary D. Wescott
Mary D. Wescott, Council Secretary

Dist: Council, Attorney, Auditor, Clerk, Library, Police, Highway, Codes, Assessor, Finance, Fire, Supt. of Schools, Planner

Tabled indefinitely Council Meeting #11-89
May 2, 1989

PROPOSED

ORDINANCE REGULATING SUBSURFACE WASTEWATER DISPOSAL

Item #57-89

(CHAPTER 19)

I. Authority

This Ordinance is enacted pursuant to the authority of 30 M.R.S.A., Section 3221 and 30 M.R.S.A., Section 2151-A.

II. Purpose

The purpose of this Ordinance is to protect the quality and quantity of groundwater in the Town of Freeport, since residents depend upon this resource for drinking water, and to protect the quality of waterbodies such as lakes, streams, rivers, wetlands and tidal waterbodies.

III. Construction and Application

This Ordinance is supplemental to the State of Maine Subsurface Wastewater Disposal Rules promulgated by the Department of Human Services Division of Health Engineering, as such may be amended from time to time, hereinafter called the State Plumbing Code. This Ordinance establishes minimum requirements for subsurface wastewater disposal within the Town of Freeport. Whenever the State Plumbing Code imposes a greater or more restrictive requirement, the State Plumbing Code requirement shall govern. Whenever this Ordinance imposes a greater or more restrictive requirement, this Ordinance shall govern. In no event shall this Ordinance be construed to be less restrictive than the State Plumbing Code.

IV. Administration

This Ordinance shall be administered and enforced by the Local Plumbing Inspector of the Town of Freeport.

V. Definitions

Unless otherwise specified in this Ordinance, all terms used in this Ordinance shall have the same meanings as in the State Plumbing Code.

VI. Minimum Distance Between Subsurface Wastewater Disposal System and Well

A. One Hundred Foot Separation Required

1. Unless otherwise authorized by this Ordinance, a minimum distance of 100 feet shall be maintained between any well and any subsurface wastewater disposal system ("system"), except in the case of systems which are in existence on the effective date of this Ordinance and are not malfunctioning on the effective date of this Ordinance or anytime thereafter.

- B. Replacement of a malfunctioning system serving commercial or industrial uses containing less than 2,500 square feet of gross floor area or business or professional offices containing a maximum of 10 employees provided that the applicant documents, in the manner set forth in Section VI (B) (2) of this Ordinance, that no other alternative is possible.
- C. Replacement of existing holding tanks in recreational facilities.

IX Cluster Septic Systems

As used in this section, cluster septic system means a subsurface septic disposal system which is not administered by the Freeport Sewer District and which serves more than one lot, dwelling unit or other occupancy.

- A. Lots created after (date of adoption of Ordinance) and used for a single family dwelling or a two-family dwelling shall not use a cluster septic system.
- B. Multi-family dwellings or condominiums or other uses which involve multiple occupancy on a single lot or parcel may use a cluster system, provided the applicant demonstrates to the Local Plumbing Inspector that the cluster system will comply with all the following requirements:
 - 1. Unless all the dwelling units are to be owned by the same person, a homeowners' association or other legal entity ("association") shall be created to be responsible for maintenance and operation of the cluster system.
 - 2. The cluster system shall remain private and shall be available for use only by the owner or members of the association.
 - 3. The owner or association shall create and maintain a reserve fund in an amount sufficient to install a replacement system.
 - 4. The owner or association shall enter in a service contract for maintenance of the system, which contract shall include, at a minimum, annual pumping.
 - 5. A suitable site for a replacement system shall be provided on the lot or parcel.
 - 6. For cluster systems with a design capacity of more than 2,000 gallons per day, a hydrogeological study of the impact of the proposed system on groundwater shall be submitted and shall demonstrate that groundwater quality on the lot(s) or adjacent lots will not be degraded.

- (d) If a separation of less than 100 feet is approved, or if the replacement system requires a variance, low flow fixtures may be required to be installed in the structure or structures served by the system.

VII New System Variances for Septic Systems

A. Residential Uses

1. Variances Prohibited

- (a) Notwithstanding anything to the contrary in the State Plumbing Code, no new system variance shall be permitted for a septic system to serve a residential dwelling on any lot created after (date of adoption of Ordinance)
- (b) No new system variance is permitted for any lot in the RP-I and RP-II Districts as designated in the Town of Freeport Zoning Ordinance.
- (c) No new system variance is permitted for a Seasonal Conversion Permit in an area subject to Mandatory Shoreland Zoning.

2. Variances Permitted

Unless otherwise prohibited by subparagraph (b) or (c) of Paragraph 1 of Subsection A of this Section (VII), a variance may be issued for a lot of record existing on (date of adoption of Ordinance) provided that, under the rating system used in the State Plumbing Code, the lot rates at least 65 points, or at least 75 points if located in an area subject to Mandatory Shoreland Zoning controls. If the size of the lot is a necessary component of maintaining the required rating, then no further subdivision of the lot is permitted, and the variance shall be conditioned upon the applicant's recording a declaration of that restriction in the Cumberland County Registry of Deeds.

B. Non-Residential Uses

No new system variance shall be permitted for any non-residential use, except commercial or industrial uses of less than 2,500 square feet of gross floor area, or business or professional offices containing a maximum of 10 employees.

VIII Holding Tanks

Holding tanks are permitted only for the following uses:

- A. Replacement of a malfunctioning subsurface wastewater disposal system serving a seasonal dwelling provided that the applicant documents, in the manner set forth in Section VI (B) (2) of this Ordinance, that no other alternative is possible.

- B. Replacement of a malfunctioning system serving commercial or industrial uses containing less than 2,500 square feet of gross floor area or business or professional offices containing a maximum of 10 employees provided that the applicant documents, in the manner set forth in Section VI (B) (2) of this Ordinance, that no other alternative is possible.
- C. Replacement of existing holding tanks in recreational facilities.

IX Cluster Septic Systems

As used in this section, cluster septic system means a subsurface septic disposal system which is not administered by the Freeport Sewer District and which serves more than one lot, dwelling unit or other occupancy.

- A. Lots created after (date of adoption of Ordinance) and used for a single family dwelling or a two-family dwelling shall not use a cluster septic system.
- B. Multi-family dwellings or condominiums or other uses which involve multiple occupancy on a single lot or parcel may use a cluster system, provided the applicant demonstrates to the Local Plumbing Inspector that the cluster system will comply with all the following requirements:
 - 1. Unless all the dwelling units are to be owned by the same person, a homeowners' association or other legal entity ("association") shall be created to be responsible for maintenance and operation of the cluster system.
 - 2. The cluster system shall remain private and shall be available for use only by the owner or members of the association.
 - 3. The owner or association shall create and maintain a reserve fund in an amount sufficient to install a replacement system.
 - 4. The owner or association shall enter in a service contract for maintenance of the system, which contract shall include, at a minimum, annual pumping.
 - 5. A suitable site for a replacement system shall be provided on the lot or parcel.
 - 6. For cluster systems with a design capacity of more than 2,000 gallons per day, a hydrogeological study of the impact of the proposed system on groundwater shall be submitted and shall demonstrate that groundwater quality on the lot(s) or adjacent lots will not be degraded.

7. Minimum distances between a cluster system and any well shall be determined by the design flow of the system, according to the following schedule:

150 feet for 800 gallons per day
200 feet for 1,200 gallons per day
250 feet for 1,600 gallons per day
300 feet for 2,000 gallons er day or more.

8. For systems of 2,000 gallons per day or more, monitor wells shall be installed, with at least one monitor well up grade and two down grade of the cluster system, and tests shall occur at least at three levels. Tests shall be made before installation of the cluster system, and after installation testing shall occur at least annually and the results shall be submitted to the Local Plumbing Inspector.

XI Violations and Penalties

Any person who violates any provision of this Ordinance commits a civil violation and is subject to civil penalties as provided in 30 M.R.S.A., Section 4966. The Town of Freeport may also enjoin any violation or threatened violation of the provisions of this Ordinance.

XII Finality of Decisions

Decisions made by the Licensed Plumbing Inspector pursuant to the administration this Ordinance may be appealed to the Zoning Board of Appeals of the Town of Freeport according to the procedures outlined in Section 601 of the Freeport Zoning Ordinance.