

M I N U T E S  
FREEPORT TOWN COUNCIL MEETING #18-91  
FREEPORT TOWN HALL COUNCIL CHAMBERS  
JULY 23, 1991                      -        7:30 P. M.

REGULAR   X        SPECIAL   -  

CHAIRMAN'S CALL TO ORDER	PRESENT	ABSENT	EXCUSED
EDWARD BRADLEY, CHAIRMAN FLYING POINT	X		
VAUGHNDELLA CURTIS, VICE-CHAIRMAN PINE STREET	X		
KIRK GODDARD MAST LANDING		X	X
ROBERT STEVENS PORTERS LANDING	X		
EDWARD CAMPBELL GAY DRIVE	X		
WILLIAM GRADY ELM STREET EXTENSION	X		
ANDREW ARSENAULT U.S. ROUTE 1 SOUTH	X		

MOVED AND SECONDED - TO WAIVE THE READING OF THE MINUTES OF MEETING #17-91  
HELD JULY 9, 1991, AND ACCEPT THE MINUTES AS PRINTED.  
(COUNCILORS GRADY & CURTIS)      (6 AYES)      (0 NAYS)

JULY 23, 1991

ITEM #143-91 MOVED AND SECONDED - THAT THE FOLLOWING RE-APPLICATION FOR A FULL-TIME MALT AND VINOUS LICENSE BE SUBJECT TO PUBLIC HEARING:

ROBIN C. WADE, D/B/A THE CORSICAN RESTAURANT, 9 MECHANIC STREET.  
(COUNCILORS CURTIS & ARSENAULT) (6 AYES) (0 NAYS)

MOVED AND SECONDED - THAT THE PUBLIC HEARING BE CLOSED.  
(COUNCILORS CURTIS & CAMPBELL) (6 AYES) (0 NAYS)

BE IT ORDERED - THAT THE RE-APPLICATION FOR A FULL-TIME MALT AND VINOUS LICENSE ISSUED TO THE ABOVE NAMED APPLICANT BE APPROVED.  
(COUNCILORS CURTIS & GRADY) (6 AYES) (0 NAYS)

ITEM #144-91 BE IT ORDERED - THAT, SINCE THE COMPREHENSIVE PLAN REVISION COMMITTEE HAS COMPLETED ITS ASSIGNED TASK, THAT THE COMMITTEE IS HEREBY DISBAND, EFFECTIVE IMMEDIATELY.  
(COUNCILORS STEVENS & GRADY) (5 AYES) (1 NAY, COUNCILOR ARSENAULT)

ITEM #145-91 ACTION RELATIVE TO A RESOLUTION RECOGNIZING THE EFFORTS OF ELAINE GREENE IS TABLED UNTIL AUGUST 6, 1991.  
(COUNCILORS CAMPBELL & CURTIS) (6 AYES) (0 NAYS)

ITEM #146-91 BE IT ORDERED - THAT THE LEASE AGREEMENT BETWEEN THE TOWN OF FREEPORT AND THE MERRICONEAG SCHOOL FOR THE USE OF THE MUNICIPAL PROPERTY LOCATED AT 99 SOUTH FREEPORT ROAD (MAP 2 LOT 85) BE APPROVED.  
(COUNCILORS CURTIS & CAMPBELL) (6 AYES) (0 NAYS)

ITEM #147-91 MOVED AND SECONDED - THAT THE TOWN MANAGER READ THE BIDS.  
(COUNCILORS CAMPBELL & CURTIS) (6 AYES) (0 NAYS)

BE IT ORDERED - THAT THE BID FROM STEVEN DAY & SON IN THE AMOUNT OF \$9,452.75 FOR CONVERSION OF LIGHTING IN THE MUNICIPAL BUILDINGS BE ACCEPTED.  
(COUNCILORS CAMPBELL & CURTIS) (6 AYES) (0 NAYS)

ITEM #148-91 ACTION TO TRANSFER OF FUNDS FOR ARCHITECTURAL SERVICES FOR FIRE, RESCUE, POLICE & PUBLIC WORKS FACILITIES IS TABLED UNTIL AUGUST 20.  
(COUNCILORS STEVENS & GRADY) (6 AYES) (0 NAYS)

ITEM #149-91 BE IT ORDERED - THAT MICHAEL VERVILLE BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE TRAFFIC AND PARKING COMMITTEE.

BE IT FURTHER ORDERED - THAT MR. VERVILLE QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CAMPBELL & CURTIS) (5 AYES) (1 NAY, COUNCILOR ARSENAULT)

ITEM #122-91 BE IT ORDERED - THAT EDWARD BUETER BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE ZONING BOARD OF APPEALS UNTIL JULY 1, 1994.

BE IT FURTHER ORDERED - THAT MR. BUETER QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CAMPBELL & STEVENS) (5 AYES) (1 NAY, COUNCILOR ARSENAULT)

JULY 23, 1991

ITEM #123-91 BE IT ORDERED - THAT PAMELA LEONE BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE ZONING BOARD OF APPEALS UNTIL JULY 1, 1994.

BE IT FURTHER ORDERED - THAT MS. LEONE QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CAMPBELL & STEVENS) (6 AYES) (0 NAYS)

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ITEM #142-91 BE IT ORDERED - THAT GERARD WELCH BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE ZONING BOARD OF APPEALS UNTIL JULY 1, 1993.

BE IT FURTHER ORDERED - THAT MR. WELCH QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CAMPBELL & CURTIS) (6 AYES) (0 NAYS)

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ITEM #124-91 BE IT ORDERED - THAT JAMES MITCHELL BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE SHELLFISH COMMISSION UNTIL JULY 1, 1994.

BE IT FURTHER ORDERED - THAT MR. MITCHELL QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS STEVENS & CURTIS) (6 AYES) (0 NAYS)

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ITEM #125-91 BE IT ORDERED - THAT RYAN DOHERTY BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE SHELLFISH COMMISSION UNTIL JULY 1, 1994.

BE IT FURTHER ORDERED - THAT MR. DOHERTY QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CURTIS & CAMPBELL) (6 AYES) (0 NAYS)

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ITEM #126-91 BE IT ORDERED - THAT RUSSELL COX BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE AREA DEVELOPMENT COUNCIL UNTIL JULY 1, 1992.

BE IT FURTHER ORDERED - THAT MR. COX QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS STEVENS & CURTIS) (6 AYES) (0 NAYS)

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ITEM #127-91 BE IT ORDERED - THAT CONSTANCE HOFACKER BE APPOINTED, EFFECTIVE IMMEDIATELY, TO SERVE AS A MEMBER OF THE LAND BANK COMMISSION UNTIL JULY 1, 1992.

BE IT FURTHER ORDERED - THAT MRS. HOFACKER QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK BY AUGUST 2, 1991.  
(COUNCILORS CAMPBELL & CURTIS) (6 AYES) (0 NAYS)

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JULY 23, 1991

ITEM #134-91 MOVED AND SECONDED - THAT THE FOLLOWING AMENDMENT BE ADOPTED:"ARTICLE IV, SECTION 402.II.D.2 -

G. REGISTRATION OF EXISTING USES. THE OWNER OF ANY EXISTING USE AS DEFINED IN SECTION 402.II.D.1 MUST REGISTER WITH THE CODES ENFORCEMENT OFFICER (CEO) WITHIN SIXTY (60) DAYS OF THE EFFECTIVE DATE OF THE RR-IA ZONING OF THE PARCEL ON WHICH THE USE IS LOCATED. THE REGISTRATION SHALL DESCRIBE AND CALCULATE THE EXISTING BUSINESS OCCUPANCY AREA AS DEFINED IN SECTION 402.II.D.2.E. THE CEO SHALL VERIFY THE CALCULATION WITHIN THIRTY (30) DAYS OF THE REGISTRATION. THIS CALCULATION SHALL BE USED THEREAFTER FOR DETERMINING THE EXTENT OF ANY EXPANSION. FAILURE TO REGISTER SHALL CAUSE ANY EXISTING USE TO BECOME A NEW USE AND IT MUST RECEIVE PLANNING BOARD SITE REVIEW AND APPROVAL IN ORDER TO CONTINUE."

(COUNCILORS BRADLEY &amp; CAMPBELL) (6 AYES) (0 NAYS)

*amendments attached -*

BE IT ORDERED - THAT THE PROPOSED AMENDMENTS ENTITLED "RICHARD DAVIS REVISED PROPOSED ZONING AMENDMENTS FOR A RR-IA SUBDISTRICT DATED JUNE 19, 1991 BE APPROVED.

(COUNCILORS CAMPBELL & ARSENAULT) (3 AYES) (3 NAYS, COUNCILORS CURTIS, STEVENS & BRADLEY) **ORDER DEFEATED**

MOVED AND SECONDED - THAT THE FOLLOWING AMENDMENT BE ADOPTED:"ARTICLE IV, SECTION 402.II.D.2 -

G. REGISTRATION OF EXISTING USES. NOTE: THIS IS THE SAME LANGUAGE LISTED IN ABOVE.

(COUNCILORS STEVENS &amp; CAMPBELL) (6 AYES) (0 NAYS)

MOVED AND SECONDED - PLANNING BOARD DOCUMENT #1 - DRAFT #3 DATED JUNE 4, 1991 - TO AMEND THE "PURPOSE SECTION" TO RESTRICT THE RR-IA ZONE TO AREAS OF THE TOWN OF FREEPORT IN WHICH A NUMBER OF BUSINESSES, NOT HOME OCCUPATIONS, HAD BEEN AND WERE IN EXISTENCE ON THE WELL TRAVELLED WAYS FOR WHICH THE ZONE HAS BEEN ESTABLISHED. (COUNCILORS BRADLEY & CAMPBELL) (4 AYES) (2 NAYS, COUNCILORS STEVENS & BRADLEY)

BE IT ORDERED - THAT THE PROPOSED AMENDMENTS ENTITLED "FREEPORT PLANNING BOARD #1 - DRAFT #3 - DATED JUNE 4, 1991 BE APPROVED.

(COUNCILORS CAMPBELL & CURTIS) (4 AYES) (2 NAYS, COUNCILORS STEVENS & BRADLEY)

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ITEM #140-91 ACTION RELATIVE TO DISCONTINUANCE OF A PUBLIC WAY KNOWN AS MEETING HOUSE LANE IS TABLED UNTIL AUGUST 20.

(COUNCILORS STEVENS & ARSENAULT) (6 AYES) (0 NAYS)

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## OTHER BUSINESS:

1. ASSESSOR RICHARD MAIN GAVE AN UPDATE ON THE TOWNWIDE REVALUATION AND THE EQUALIZATION PROGRAM. ON AUGUST 9 & 20, THERE WILL BE A VIDEO ON CABLE TV ON THE PROCESS OF ASSESSING. COUNCIL HAD DISCUSSION ON CITIZEN RIGHTS TO REFUSE THE ASSESSOR INTO THE HOUSE WHILE REVALUATING, PRO AND CON.
2. LOCAL ROAD ASSISTANCE PROGRAM - COUNCIL HAS TO SIGN THE DOCUMENT TO VERIFY THAT THE FUNDS RECEIVED \$86,880.00 WILL BE USED FOR THE MAINTENANCE OF THE ROADS.

JULY 23, 1991

## OTHER BUSINESS CONTINUED -

3. DISCUSSION ON ISSUES SURROUNDING PUBLIC WAYS AT DIXON ROAD AND PORTERS LANDING HAS BEEN TABLED TO AUGUST 20.
4. TOWN CLERK MARY WESCOTT RECEIVED PERMISSION TO MOVE THE ELECTION SITE FROM THE MIDDLE SCHOOL TO THE HIGH SCHOOL GYM.
5. TOWN MANAGER OLMSTEAD DECLARED THAT THE BUSTINS ISLAND BUSINESS MEETING IS SCHEDULED FOR AUGUST 13 - WHO IS GOING?
6. TOWN MANAGER OLMSTEAD STATED THAN AN ENVIRONMENTAL GROUP HAD APPROACHED HIM ABOUT GETTING PERMISSION TO STENCIL MANHOLES IN AN EFFORT TO KEEP PEOPLE FROM STUFFING GARBAGE INTO THEM.
7. TOWN MANAGER OLMSTEAD NEEDED PERMISSION TO SIGN THE DENNY PARKING LEASE AS AN AGREEMENT HAD BEEN REACHED.  
MOVED AND SECONDED - THAT THE TOWN MANAGER BE AUTHORIZED TO ACCEPT AND SIGN THE DOCUMENT.  
(COUNCILORS BRADLEY & STEVENS) (6 AYES) (0 NAYS)
8. TOWN MANAGER INFORMED COUNCIL THAT THE TOWN OF FREEPORT HAD BEEN SUCCESSFUL IN THE CLEARCUTTING CASE ON FLYING POINT - THE COURT FOUND IN FAVOR OF THE TOWN, AWARDED A FINE OF \$2,500, ALL LEGAL FEES WOULD BE PAID, AND AWARDED THE TOWN THE ORIGINAL PLANTINGS ON THE PROPERTY.

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MOVED AND SECONDED - THAT THE TOWN ENTER INTO EXECUTIVE SESSION WITH THE TOWN ATTORNEY

ITEM #150-91 MOVED AND SECONDED - THAT THE TOWN ENTER INTO EXECUTIVE SESSION WITH THE TOWN ATTORNEY TO DISCUSS LITIGATION - TOWN OF FREEPORT VS T.Y.LIN/HUNTER BALLEW.  
(COUNCILORS GRADY & CURTIS) (6 AYES) (0 NAYS)

MOVED AND SECONDED - THAT THE COUNCIL RECONVENE.  
(COUNCILORS CURTIS & BRADLEY) (6 AYES) (0 NAYS)

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MOVED AND SECONDED - THAT THE COUNCIL ADJOURN AT 10:49 P.M.  
(COUNCILORS CURTIS & ARSENAULT) (6 AYES) (0 NAYS)

RECORDED BY:  
*Mary D. Wescott*  
MARY D. WESCOTT  
INTERIM COUNCIL SECRETARY

A PROPOSAL TO SET THE SIZE OF EXISTING USES

Approved July 23, 1991

Article IV

Sec. 402.II.D.2

- g. Registration of existing uses. The owner of any existing use as defined in Section 402.II.D.1 must register with the Code Enforcement Officer (CEO) within sixty (60) days of the effective date of the RR-IA zoning of the parcel on which the use is located. The registration shall describe and calculate the existing business occupancy area as defined in Section 402.II.D.2.e. The CEO shall verify the calculation within in thirty (30) days of the registration. This calculation shall be used thereafter for determining the extent of any expansion. Failure to register shall cause any existing use to become a new use and it must receive planning board site review and approval in order to continue.

Freeport Planning Board

JUNE 4, 1991

DRAFT #3

Recommended Zoning Amendments

*approved Council Meeting - with amendments  
July 23, 1991*

Article I

Sec. 104.

Add the following in alphabetical order:

Arboriculture: The business location of an arborist as defined in 32 M.R.S.A. §1951 and which is conducted pursuant to a state license-issued pursuant to 32 M.R.S.A. §2051 et seq.

Auto Sales: The offering and sale of automobiles, light trucks, vans, and accessories, parts, supplies, and equipment to the general public at a facility and location pursuant to the requirements and a license issued by the Maine Secretary of State pursuant to 29 M.R.S.A. §341 et seq. In the RR-IA District such sales shall be limited to used vehicles, plus accessories, parts, supplies and equipment.

Landscaping: The business location of a person engaged in the commercial practice of landscape gardening and who performs labor or services or furnishes labor, materials or services in the laying out or construction of any road, path or walk, or in improving or beautifying any land in a manner commonly known as landscape gardening, by virtue of a contract with or by consent of the owner and shall also include nurseries and the places where nursery stock and vegetation is grown, stored or offered for sale as defined in 7 M.R.S.A. §2201 and subject to the regulation and inspection of the Maine Department of Agriculture, Food and Rural Resources and licensing pursuant to 32 M.R.S.A. §1901 and as hereafter amended.

Article II

Sec. 201.

- 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 use, except as provided in Sec. 402.II.C. below.

## Article IV

### Sec. 402. Rural Residential District I "RR-I and Rural Residential District IA "RR-IA".

#### I. RR-I

#### II. RR-IA

##### A. Purpose:

The Rural Residential District I has in it in limited areas along well traveled roads or at intersections areas where historically and traditionally dispersed small businesses have been located on property which is also the primary residence of the business owner. These rural uses are more intense than Home Occupations but less intense and limited than other commercial and industrial uses. They are a part of the rural character and diversity of housing types which the Comprehensive Plan seeks to protect. These areas are subdistricts of RR-I and are Rural Residential District IA or "RR-IA". Except as provided herein, RR-IA shall in all other respects be treated as RR-I.

##### B. Permitted Uses:

#### 1. All uses listed in Sec. 402.I.B. as permitted and all permitted uses subject to site plan review regardless of size;

#### 2. In addition, the following uses are permitted and subject to site plan review regardless of size:

##### a. The following uses are permitted only when the owner of the property on which the use is located uses the property as the owner's primary residence and is also the majority owner of the following permitted small business use located on the property:

- (1.) Auto repair service garage,
- (2.) Auto sales, used
- (3.) Landscaping,
- (4.) Arboriculture

##### C. Space Standards:

Space standards shall be the same as those required for the RR-I District (Sec. 402.I.C.) except that the minimum lot size shall be the total of the minimum required for the residential use of the property plus a minimum of one acre for the uses listed in Sec. 402.II.B. above.



D. Other Standards Applicable only to uses listed in Sec. 402.II.B.2. above.

1. Non-Conformance

As used in this subsection (1) and except as otherwise indicated, the words "existing," "non-conforming," "legally," "illegal" and "illegally" shall be applied as of (the date one day before the effective date of these amendments) and the word "use" shall mean any of the uses listed in Section 402.II.B.2. An existing legally non-conforming use shall not require site plan review in order to continue. An existing legally non-conforming use which is proposed to expand shall require site plan review only for the expansion. An existing use, a portion of which is legally non-conforming and a portion of which has expanded illegally prior to (date which is one day before the effective date of these amendments) shall require site plan review only for the illegal expansion. An illegally existing use shall require site plan review for the entire existing use as well as for any proposed expansion.

2. Except for non-conforming uses or expansions which are exempt from site plan review under subsection (1) above, all uses listed in Section 402.II.B.2. are subject to the following standards:

- a. Setbacks. No exterior storage of materials, commercial vehicles used by the business, parking areas or any other exterior indications of the business use shall be permitted in any setback except that plantings rooted in the ground shall be permitted in the side and rear setbacks. In the front setback, in a strip extending along the entire frontage, for a depth of a minimum of fifty (50) feet, except for accessways, landscaping is required.
- b. Buffering. Buffers shall be provided in the setbacks at the district boundaries, where required. In addition, except as permitted in Section 402.II.D.2.a., buffers are required in the side and rear setbacks of each lot and shall meet the standards listed in Sec. 506.A, B, C and D.
- c. The performance standards of Article V, where applicable, shall be met. Objectionable conditions such as, but not limited to, noise, smoke, dust, odors or glare shall not be generated by any use, including those otherwise exempt from these standards under subsection (1) above.

- d. In addition to the residents of the dwelling unit, no more than two full-time employees or combination of full-time and part-time employees or a number of part-time employees equivalent to the time worked by two full-time employees (a maximum of 80 hours per week) may be employed by the business use and no more than a total of five employees shall be on the site at any one time.
- e. Size Limitations. The area used by the business shall not occupy more than fifty percent (50%) or 20,000 square feet of the land area of the parcel, whichever is less. Included in this business occupancy area calculation shall be all the primary, accessory, and secondary structures, storage areas, display areas, parking areas and accessory uses areas related to the business activity. Excluded from this business occupancy area calculation shall be all of the residential uses and uses accessory to the residential uses, open space, personal use areas, and all setbacks except for business use accessways.

Sec. 506. Buffer Zones.

No building or structure .... following districts (RR-IA,  
C-I .....

RR-I-A - 500' from property line

Alt. A

TOWN OF FREEPORT  
PROPOSED ZONING MAP AMENDMENTS  
FOR A RR-1A SUBDISTRICT

