

**Freeport Town Council Meeting #28-92  
Freeport Town Hall Council Chambers  
December 1, 1992 - 7:30 P.M.**

	Regular <u>X</u>	Special		
<u>Chairperson's Call To Order</u>			<u>Present</u>	<u>Absent</u> <u>Excused</u>
Kirk Goddard, Chairman, Mast Landing			X	
Edward Bradley, Flying Point			X	
John Nelson, Vice-Chairman, Church Road			X	
Andrew Arsenault, U.S. Route #1			X	
Cary Veilleux, Wardtown Road			X	
Randall Bennett, Park Street			X	
Elizabeth Ruff, Durham Road			X	

**FIRST ORDER OF BUSINESS:**

**MOVED & SECONDED** - To waive the reading of the minutes of Meeting #27-92 held November 24, 1992 and accept the minutes as printed (Councilors Bennett & Veilleux)      (7 Ayes)      (0 Nays)

**SECOND ORDER OF BUSINESS:** Public Comment Period - 15 minutes. Chairman Goddard stated that in order to make sure all the people in the audience and at home can hear, during the Public Comment Period, a podium has been installed with a microphone and he asked everyone who had comments to use it. If people had specific questions they would like to have addressed, every councilor would be happy to answer them any time during the week. If it was a formal question that they'd like a formal reply to, he asked that they be submitted in writing to the town manager and the councilors would make sure they get a formal response. In terms of questions or comments regarding town personnel or personal comments on litigation--none of these will be allowed during the Public Comment Period. Mr. Goddard stated that the Public Comment Period, as we have it today, has never been formally adopted. The Ordinance Committee, that will be appointed later tonight, will consider formally adopting the Public Comment Period and a policy concerning the comment period. He invited input from the audience. He stated that the Public Comment Period tonight will be 15 minutes unless a councilor votes to extend it.

Ken Mann asked the council about a meeting that has been arranged with Senator Harriman to discuss the assessment of mobile homes. Mr. Olmstead stated that Senator Harriman called and asked to have a meeting set up with the town manager and the council leadership to discuss two issues brought up at meetings the Senator attended in Freeport during his campaign. One issue was the local-option sales tax and the other was the way the law requires mobile homes to be assessed. The Senator felt that if those were important issues to the town, he'd be willing to sponsor legislation dealing with both of those. Senator Harriman also said that he would be willing to discuss any other issues.

Ken Mann stated that this was a good idea and a good opportunity for the public to come to that meeting and speak. He asked when the meeting would be held so the public could attend. Mr. Nelson stated that he would meet as the Senator requested but would be happy to ask the Senator if he was willing to have a public meeting on these issues.

Councilor Veilleux read his letter to Representative James Mitchell and Senator Harriman (with copies to the Times Record and the Portland Press Herald). (A copy of the letters is attached.)

Carolyn Woerter expressed her concern that the Public Comment Period would be taken away. Mr. Goddard read his remarks again about the Public Comment Period. Councilor Nelson explained that Councilors don't always have access to information, at the time (the questions are asked), so the request to put the question in writing allows them time to get the information and respond. Mr. Bradley also stated that the Councilors are always open to questions and discussion but by putting the questions in writing, it would allow more thorough responses.

**MOVED AND SECONDED:** To extend the Public Comment Period by 5 minutes. (Councilors Bradley & Bennett) (7 Ayes) (0 Nays)

Mary Kennedy expressed her concerns that the council was becoming more inaccessible. She feels that the council should be more accessible and one way is during the public discussion time.

Councilor Ruff stated that she felt that the whole issue of accessibility is very important and hopes that the Ordinance Committee will address the issue of extending the Public Comment Period as soon as it can. She suggested that perhaps holding a public hearing on a regular basis to have an opportunity for people to come and have interchange and comments and not have a regular council meeting.

Chairman Goddard recommended that the council put a couple of rules into effect that will help to do that. He stated that the Council needs to have orderly meetings to accomplish the goals that the Councilor have put forth. The Council need to have effective meetings. He asks that people confine their comments to the first time they have the podium as they may not get the opportunity after that. Everybody will have an opportunity to speak.

Mr. Bradley suggested that these recommendations not be adopted tonight but be considered by the Ordinance Committee. He stated that public comment will be solicited and considered--to decide the best way to get things done.

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

**Item #224-92** To consider action relative to an application for a victualer's license for the Freeport Cafe. (Public Hearing)

**MOVED AND SECONDED:** That the council adjourn and the Licensing Board convene. (Councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

**ROLL CALL OF MEMBERS:**

Kirk Goddard  
John Nelson  
Edward Bradley  
Andrew Arsenault  
Cary Veilleux  
Randall Bennett  
Elizabeth Ruff  
Dale Olmstead

**MOVED AND SECONDED:** that the following application for a Victualer's License be subject to Public Hearing. J. Sean Riley, d/b/a The Freeport Cafe, U.S. Route One. (Councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** That the Public Hearing be closed.

**MOVED AND SECONDED:** That the application for a Victualer's License as noted above be approved. (Councilors Veilleux & Bennett ) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** That the Licensing Board adjourn and the Council reconvene. (councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

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**Item #225-92** To consider action relative to an application for a full time malt, spirituous and vinous license. (Public Hearing)

**MOVED AND SECONDED:** That the following application for a full Time Malt, Spirituous and Vinous License be subject to Public Hearing. J. Sean Riley, d/b/a/ The Freeport Cafe, U. S. Route 1. (Councilors Bradley & Veilleux)

**MOVED AND SECONDED:** That the Public Hearing be closed. (Councilors Bradley & Bennett)

**BE IT ORDERED:** That the application for a Full Time Malt, Spirituous, and Vinous License issued to The Freeport Cafe be approved. (Councilors Bradley & Veilleux)  
(7 Ayes) (0 Nays)

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**Item #226-92** To consider action relative to the vacating of the way known as "E" Street located within the boundaries of Winslow Park. (Public Hearing)

**MOVED AND SECONDED:** That the request to vacate "E" Street be subject to Public Hearing. (Councilors Bradley & Bennett) (7 Ayes)  
(0 Nays)

**MOVED AND SECONDED:** That the Public Hearing be closed. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

**BE IT ORDERED:** That based upon the Petition dated November 4, 1992 filed by Paul I. Davis, Jr., Reed kW. Davis, Richard A. Davis, Lorraine D. Jackman, Patricia D. Bryce, Gwendolyn M. Sargent, Judith A. Morin, David H. Davis, and Nancy A. Chadbourne with the municipal officers of the Town of Freeport to vacate the said "E" Street, as shown upon a subdivision plan entitled Plan of Lots on Winslow's Point, Freeport, Maine surveyed September 1921 by George B. Merrill, C.E. as recorded in the Cumberland County Registry of Deeds on April 28, 1953 in Plan Book 39, Page 34, and upon notice having been given to all other lot owners and mortgagees of record in said subdivision namely:

- (a) Lot J is owned by Eugene J. Conway and Geraldine M. Conway, 46 Waldo Road, Arlington, Mass. 02174.
- (b) Lot K is owned by Gordon Glover and Lynn Glover, P. O. Box 241, South Freeport, Maine 04078.
- (c) Lot L is owned by Robert C. Revou, 3148 Lake Park Lane, Sarasota, Florida 34231.

- (d) Lot M is owned by Joseph Chomyn and Anita Chomyn, 104 Staples Point Road, Freeport, Maine 04078
- (e) As of October 23, 1992 there were no mortgages of record for any of the above-described lot owners.

And for good causes having been shown, the municipal officers of the town of Freeport hereby order the said way known as "E" Street as shown upon the subdivision plan entitled Plan of Lots on Winslow's Point, Freeport, Maine, being recorded in the Cumberland Registry of Deeds in Plan Book 39, Page 34, be and it hereby is vacated.

A copy of this Order of Vacation shall be recorded by the Petitioners in the Cumberland country Registry of Deeds and the Registrar of Deeds shall make a cross-reference to the Order of Vacation upon or attached to the face of the subdivision plan, and shall also index the Order under the names of the Lot owners referred to above, pursuant to title 23 M.R.S.A. 3027-A.

Pursuant to title 23 M.R.S.A. 3027, all persons are forever barred from maintaining any action at law or in equity to establish, recover, confirm, or otherwise enforce any right or claim to or in the vacated way known as "E" Street by reason of the ownership by the claimant or by a predecessor in title of a lot or parcel of land shown on the recorded subdivision plan, unless, within one (1) year of the date of recordation of the Order of Vacation, the claimant files in the Cumberland County Registry of Deeds a statement under oath specifying the nature, basis, and extent of the claimed interest in the way and within one hundred eighty (180) days thereafter, commences an action in the Cumberland Superior Court in accordance with Title 23 M.R.S.A. 3027-A. (Councilors Bradley & Veilleux) (6 Ayes) (1 Nay)

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**Item #227-92** To consider action relative to Freeport's December 1992 General Obligation Bonds Issue.

**MOVED AND SECONDED --- BE IT ORDERED:** That in connection with the proposed issuance and sale of up to \$3,274,000 of 1992 General Obligation Bonds of the Town of Freeport, Maine previously approved to fund various school and municipal capital improvement projects, the Treasurer and the Chairman of the Town Council are hereby authorized, pursuant to the provisions of 30-A M.R.S.A. 5772, to issue said securities subject to call for redemption with or without premium at the election of the municipality before the date fixed for final payment of the securities provided that the securities, when issued, shall contain provisions setting forth the method by which the option to call may be exercised, the procedure for making payment in the event of call, and the legal effect of making the call. (Councilors Ruff & Arsenault) (7 Ayes) (0 Nays)

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**Item #228-92** To consider action relative to participation in the Coalition for Equitable School Funding.

**MOVED AND SECONDED:** That the Town of Freeport join the Coalition for Equitable School Funding. **BE IT FURTHER ORDERED:** That \$1,150 be transferred from the FY 1993 Operating Budget's Miscellaneous and Contingency Account to provide for Freeport share of the Coalition Budget. (Councilors Arsenault and Nelson) (3 Ayes) (4 Nays) **MOTION FAILED.**

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**Item #229-92** To consider action relative to overall residential property tax payments.

**MOVED AND SECONDED:** That residential property owners who decide to appeal their residential property assessments as a result of the 1992 Property Equalization Program, will not be charged interest on overdue payments until their appeal has been decided at the local level. **BE IT FURTHER ORDERED:** That an interest waiver will only apply to the difference or increase in taxes from the previous fiscal year. (Councilors Nelson & Veilleux)

**MOVED AND SECONDED TO AMEND THE MOTION AS FOLLOWS:** That residential property owners who file an appeal of their residential property tax assessment by April 16, 1993 as a result of the 1992 Property Tax Equalization Program and who are actively prosecuting their appeal will not be charged interest on overdue payments until their appeal has been decided by the Board of Assessment Review. (Councilors Bradley and Bennett) (7 Ayes) (0 Nays)

**MOVED AND SECONDED TO AMEND THE AMENDMENT:** to delete any instance where *residential* is mentioned. (Councilors Arsenault & Veilleux) (2 Ayes) (5 Nays) **MOTION FAILED.**

**VOTED:** (6 Ayes - Nelson, Bradley, Veilleux, Ruff, Bennett, Goddard) (1 Nay - Arsenault)

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**Item #230-92** To consider action relative to a parking lease agreement.

**MOVED AND SECONDED:** That the parking lease between the Town of Freeport and B & J Realty Partnership commencing January 1, 1993 be approved. (Councilors Veilleux and Ruff)

Mr. Olmstead stated that this is a lot of revenue for the Town of Freeport, it's in the budget, and the Council should protect that revenue strength. Mr. Olmstead recommended, based on his discussion with the Kelly's today, that their plans will jell by the 15th of this month and they'll be able to declare an exact number (of parking spaces) with the town. Understanding that this lease will not take place or commence until January 1, he felt it would not be unreasonable for the Council to table this item until the next meeting when there will be more concise numbers.

**MOVED AND SECONDED:** To table Item #231-92 until the December 15th Council Meeting. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)  
**MOTION TABLED.**

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## OTHER BUSINESS:

1. Interviews for a one year seat on the Freeport School Committee.

The following candidates were interviewed for the position: Edward Nunnery, Mary Ann Sondrini Taggart, Terry Jewett, Jim DeGrandpre, and Peter Moulton (he was unable to attend due to sickness).

**Item #231-92** To consider action relative to an appointment to the Freeport School Committee.

**MOVED AND SECONDED:** That Peter Moulton be appointed, effective immediately, to serve as a member of the Freeport School Committee until November 2, 1993. **BE IT FURTHER ORDERED:** That Peter Moulton qualify by swearing an oath of office before the Town Clerk by December 11, 1992. (Councilors Nelson & Bennett) (7 Ayes) (0 Nays)

2. Committee assignments for the coming year. The following Town of Freeport 1992 Committee Assignments were made:

**Municipal Facilities**

John Nelson  
C Andrew Arsenault  
Randy Bennett

**Ordinance**

Kirk Goddard  
C Ed Bradley  
Andrew Arsenault

**Appointments**

C John Nelson  
Ed Bradley  
Elizabeth Ruff

**Special Projects**

John Nelson  
Elizabeth Ruff  
C Cary Veilleux

**Community Relations**

Cary Veilleux  
Elizabeth Ruff  
Randy Bennett

**Traffic & Parking**

Randy Bennett

**COG**

Elizabeth Ruff

**Cumberland County Budget**

Cary Veilleux

**Winslow Park**

John Nelson

C Chairman

3. Other Business

Mr. Bradley said that he had been asked by the Chair to attend a series of meetings with Bob Lyman and other members of staff and Mike Healy of the Recreation Committee. They drove to Waltham, Mass. and spent all day with the Army Corps of Engineers discussing the permitting situation with respect to the recreational fields on Mast Landing. To summarize the situation, he stated that through a community of contributions and some tax money, we acquired land on Mast Landing. It was supplemented by a donation of land by John White. It was subsequently merged with the school land for joint playing fields and recreational fields. At some point in the process, the permitting of the school and the playing fields became separated and we pursued them individually. The issue is wetlands impact in our proposal to develop the fields at Mast Landing. It is the subject of opposition from EPA and DOI (the Department of Interior Fish and Wildlife) basically because they believe there are characteristics of these wetlands called vernal pools which act as spawning grounds for amphibious creatures, namely frogs, that are worthy of absolute preservation. The town has worked responsibly and at great length and at significant expense to get this permitting brought through negotiations with the environmental agencies--the proposal from roughly four or five acres of impact down to .96 acres of impact which will give us the minimal

amount of playing fields we will need to support the schools and to support the original recreational concept that was originally brought forward. Because of the government agencies' opposition of this, the Corps of Engineers is in a dilemma--they held a meeting with us to discuss whether to convert our application from what's called a nation wide-permit to an individual permit. It means that there is the possibility of us being put through even more hoops than we've already been--we've already spent over \$80,000 (out of the budget to develop fields not the town budget) as a community in the permitting of these fields alone (not including the cost of acquisition or development). The group expressed these concerns to the Corps of Engineers. Mr. Bradley stated that the group came away feeling that they should abandon "reasonable man" attitude and go political and seek help with our elected representatives. Mr. Bradley stated that he has never in his experience seen a agency of the federal government take such a personal interest in opposing a project that a municipality has proposed for the benefit of all its citizens. He said that he and Mr. Lyman met with representatives of Tom Andrew's staff and George Mitchell's staff to present the situation. They have asked for support by writing letters both to the Corps of Engineers, supporting our application, and to the Department of Interior and EPA objecting to the extent they are willing to go to oppose this public project. Both Senator Mitchell and Congressman Andrews are very willing to support this if this is what the council wants. Mr. Bradley read the letter that Bob Lyman drafted for the council's approval. (The letter is attached.) Mr. Bradley stated that the town has been environmentally responsible in this effort but will not spend another dime on this issue. Mr. Goddard thanked Mr. Bradley for his time and effort on this project.

**MOVED AND SECONDED:** That the letter, Mr. Bradley read, to our congressional delegation be included in our minutes of this meeting as being supported by this Council. (Councilors Ruff and Nelson) (5 Ayes - Nelson, Goddard, Ruff, Veileux, Bradley) (2 Nays - Arsenault, Bennett) Randy Bennett changed his vote to Aye. Final vote (6 Ayes) (1 Nay) **MOTION CARRIED.**

#### **4. Procedure for discussion of results of the informal Town Meeting.**

John Nelson asked the Councilors to call either himself or Mr. Goddard on each of the specific items and recommend how to address each item--to agenda, to committee, to workshop, etc. or whether it doesn't merit being addressed--before the December 15th meeting. Then he and Chairman Goddard would decide how each item would be addressed. The plan is to have an advance agenda for the Council meetings -- six months to a year ahead. Chairman Goddard stated that one of his goals is to make sure that each Councilor has a chance to discuss at least one of their personal goals at an upcoming meeting.

Mary Kennedy submitted her suggestions for items to be included on the next agenda. She asked to be included in the agenda meetings. Chairman Goddard stated that the agenda meetings would not be public meetings. but he would be happy to discuss agenda items with anyone before that meeting. Mr. Arsenault suggested that these meetings should be public and objects to meetings that are not open to the public.

Ken Mann stated that the public is not asking for any special process or any change in the process. The rules state that any councilor can introduce an item at any meeting. He asked that a Councilor make a motion that Mary Kennedy's items be submitted for the next agenda. Ed Bradley stated that there has to be a process for setting the agenda. The Councilors must fairly consider each item and a process needs to be set to determine the priority for these items. Mr. Bradley favors the process suggested by Mr. Nelson and Mr. Goddard and stated that it is a good way to fairly prioritize the items and include them on the agenda. Ken Mann said that he is frustrated--he has tried to work within the process but the process keeps changing.

Mr. Nelson proposed that in order to deal with every item on the draft report from the Mock Town Meeting Agenda there must be a process. These are very important issues. As there is a limited amount of time for the Council to consider these issues and other very important issues, somebody has to make a decision on when they are brought forward, how they are brought forward and in what setting they are brought forward. He is proposing that the Chair and the Vice-Chair do that. Mr. Bradley said that this will only be the first cut, then the Council will discuss it on the 15th including public comment. This process will not cut anyone out.

Mr. Goddard asked the Council if there was a consensus to follow this process (to come up with recommended agendas for the next meeting). There was a consensus.

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**Item #232-92** To consider action relative to an executive session.

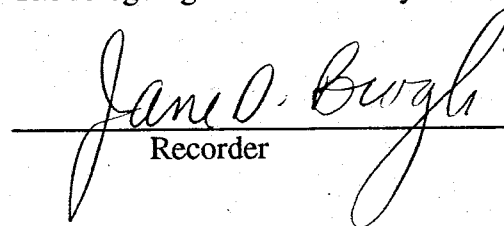
**MOVED AND SECONDED:** That the Council enter into Executive Session to discuss a personnel matter. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** That the council reconvene. (Veilleux & Bradley) (7 Ayes)

**MOVED AND SECONDED:** That after review of the complaint filed by Eldon MacLeod against the town manager and review of the town manager's response to the complaint, the Town Council finds no wrong doing on the Town Manager's part and thus will take no action in regards to the complaint. The Town Manager is instructed to refer all questions regarding active litigation to the Town Council Chairperson from this point forward. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** To adjourn at 11:37 p.m. (Councilors Bradley & Nelson) (7 Ayes) (0 Nays)

The foregoing was recorded by: Jane D. Brogli

  
Recorder