

FREEPORT TOWN COUNCIL MEETING #3-93

FEBRUARY 2, 1993

COUNCIL CHAMBERS - 7:30 P.M.

ITEM #22-93 TO CONSIDER ACTION RELATIVE TO A PROPOSED VENDING
MACHINE ORDINANCE. (CHAPTER 45) PUBLIC HEARING

ITEM #23-93 TO CONSIDER ACTION RELATIVE TO PROPOSED
AMENDMENTS TO THE FREEPORT ZONING ORDINANCE
(CHAPTER 21) PUBLIC HEARING

ITEM #24-93 TO CONSIDER ACTION RELATIVE TO A PROPOSED
AMENDMENT TO THE ADMINISTRATIVE CODE
(CHAPTER 2) PUBLIC HEARING

ITEM #25-93 TO CONSIDER ACTION RELATIVE TO A PROPOSED
AMENDMENT TO THE DESIGN REVIEW ORDINANCE
(CHAPTER 22) PUBLIC HEARING

ITEM #16-93 TABLED JANUARY 19, 1993
TO CONSIDER ACTION RELATIVE TO PROPOSED
AMENDMENTS TO THE ZONING ORDINANCE. (CHAPTER 21)

ITEM #17-93 TABLED JANUARY 19, 1993
TO CONSIDER ACTION RELATIVE TO A PROPOSED
AMENDMENT TO THE DIRECTIONAL SIGN ORDINANCE
(CHAPTER 24)

OTHER BUSINESS:

1. DISCUSSION ON FUTURE PARKING LOT LEASE AGREEMENTS
2. DISCUSSION ON PROPOSED STAFF DEVELOPMENT POLICY
3. UPDATE ON CLOSURE OF FREEPORT'S DEMOLITION SITE
4. DISCUSSION ON REQUEST FROM L.L. BEAN FOR THE USE OF BOW STREET
PARK ON JULY 4.
5. UPDATE ON LIBRARY OPTIONS AND PUBLIC HEARING.

ITEM #26-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE
SESSION.

Freeport Town Meeting # 3-93
Freeport Town Hall Council Chambers
February 2, 1993 - 7:30 P.M.

Regular X 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		
Andrew Arsenault, U.S. Route #1	X		
John Nelson, Vice-Chairman, Church Street	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 #2-93 held January 19, 1993 and accept the minutes as printed.
(Councilors Nelson & Veilleux) (7 Ayes) (0 Nays)

SECOND ORDER OF BUSINESS: Public Comment Period - 30 Minutes.

Ken Mann stated that he liked the Town Meeting form of government. He said that in the Council Form of Government the town transferred its voting privileges to the Council. The StateRight-To-Know Law requires public notice of meetings and requires that proposed ordinances be available to the public before the hearings. The Town Charter requires, in Section 2.12, page 6, "a new public hearing be held for amendments of substance to proposed ordinances." He said that if the council makes any of the amendments proposed to the Peddlers Ordinance, the council may not, by charter -- page 6, "adopt it until its amended sections have been subjected to all the procedure herein required in the case of a newly introduced ordinance." The charter requires the council to meet once a month--no where in the charter are council meetings labeled "workshops" exempt from the requirements of other council meetings. He said that, according to the charter, "the council appointed and compensated secretary to the council shall keep the public journal and shall record verbatim all council meetings." He said that last week the council met and the recording secretary was absent. He said that Council Rule 8 C states: "That any person desiring to address the council on any item which appears on any agenda shall be recognized by the Chairperson of the Council." He said that last week the room was nearly full of people coming to speak about the Peddlers Ordinance. Amendments to the proposed Peddlers Ordinance may make the difference between someone being grandfathered or being put out of business. Council Rule 8 C expressly guarantees citizens the right to speak to agenda items at any meeting. He urged that the Council follow our rules, our charter, and our state statutes.

John Forest expressed his concerns about the recreation fields on Lower Mast Landing Road and the wetlands there. He read parts of his letter to the Corps of Engineers.

Amy Adams expressed her concerns about council workshops not being public. She read from the Freeport Press, March 31, 1934 written by The Honorable Arthur E. Holbrook, Esquire: "Slab City --Have you seen Slab City on a crossroad right in town? Mr. Griffin used to live there--peddled plants the whole year round. Heaps of shells as white as

mountains almost reached right up to the eaves with mosquitoes big as parrots roosting in those alder trees. I used to hear those froggies singing in that great big open bog. Goodness sakes, was that a racket, some of them were as big as dogs. Now the boys have built some houses in this lonely little patch, but I tell you they're all happy, they pay their bills and owe no tax. Now if you want a home of comfort, there's no better place I know than build a house in new Slab City and be a hermit and save your dough." She stated that this area has been known for a long time to be a bog and the Council should not spend all this money trying to permit it.

David Thompson asked that the agenda be made clearer than Item 16-93 was--he didn't know this was the Private Peddler Amendment.

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

Item #22-93 To consider action relative to a Proposed Vending Machine Ordinance. (Chapter 45)

MOVED AND SECONDED: That the proposed Vending Machine Ordinance be subject to Public Hearing. (Councilors Arsenault & Ruff)
(7 Ayes) (0 Nays)

Jackie Cohen stated that last summer the Portland Newspapers came to the Traffic and Parking Committee to ask that they be permitted to put vending machines on the streets of Freeport and specifically designated down town. The committee looked over their request and determined that it was necessary to develop some regulations. The Traffic committee looked at other ordinances in other towns and walked Main Street and picked locations that would not interfere with the Street. The Committee developed the ordinance--including a review procedure. They would issue a one-year permit. The Ordinance takes into consideration the size of the sidewalk, locations of driveways and crosswalks, parking spaces, loading bays, and locations of street peddlers. One criteria for determining location is safety--not interfere with operation of the street and the general right-of-way and any businesses in the vicinity of the vending machine. There is also an appeal procedure to come to the Council if they want to question any ruling. These permits are set up to be on a "first-come, first-serve basis."

Pat Pooters questioned the need for vending machines at all. Jackie Cohen explained that newspapers are covered by 1st Amendment rights and unless we regulate the vending machines could go anywhere.

Susan Saunders asked about the attachment of the vending machines to walls and trees. Ms. Cohen said that the amendment covers attachment to walls but doesn't cover attachment to trees--she recommended that this be added to the amendment, if the council wanted to.

Mr. Bradley asked that the committee rewrite the method (First-Come--First-Serve) for determining who gets which space. Mr. Bennett asked that preference be given, in renewal of permits, to the person who previously held it.

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

MOVED AND SECONDED: That the proposed Vending Machine Ordinance be tabled until February 16, 1993. (Councilors Arsenault & Bennett) (7 Ayes) (0 Nays)

Item #23-93 To Consider action relative to proposed amendments to the Freeport Zoning Ordinance. (Chapter 21)

MOVED AND SECONDED: That proposed amendments to the Freeport Zoning Ordinance be subject to Public Hearing. (Councilors Ruff & Bennett) (7 Ayes) (0 Nays)

Jackie Cohen explained that the Planning Board has developed two amendments. The first one has to do with the C-2 district. Right now in the C-2 setback variances from Route 1 and the South Freeport Road are prohibited. The owner of the Casco Bay Motel is considering an expansion to their business. They have a non-conforming setback from Route 1 and the South Freeport Road. The ordinance does not permit any variances from that setback. After a public hearing, the Planning Board recommended that setback variances be permitted to be requested from the Board of Appeals only along the South Freeport Road in situations where there exists non-conforming buildings on the lot. There are four lots that would be affected by this amendment. There are buildings on all four lots--two of them have non-conforming buildings.

Mr. Goddard asked about access to the area being amended. Tom Rumpf said this amendment only addresses four lots and only non-conforming lots and doesn't feel that this would affect access or traffic issues. Dave Thompson said the changes would be minimal. This amendment really only affects the Casco Bay Motel--causes a hardship because of the shape of his lot. Mr. Thompson said that the Casco Bay Motel will be no closer to the South Freeport Road that it is now.

Mr. Arsenault said he is in support of this amendment and feels we need to go further. He would like to see this issue addressed for the entire C-2 and C-3 districts at some point in the future.

Ms. Cohen said the second proposed amendment deals with handicapped spaces. The Americans for Disabilities Act was passed last year and it requires that new development and existing development if possible conform to certain requirements. One of which is to provide accessible parking for the handicapped. She explained the law has specific sizes for those spaces. We have a number of existing developments in Freeport that cannot conform to those standards--they have existing developed parking lots and in order to meet those standards they would end up losing parking spaces. The developments can't conform to state law without having a problem with local law. The Planning Board tried to help eliminate this Catch-22 situation and they developed a process whereby an existing development could conform to the Federal Americans for Disabilities Act and create parking spaces in a legal manner. This process is set up to make it as simple as possible to do this. The applicant would show the administrative assistant (Jackie Cohen) the plans and if it meets all the requirements of the sizes and if it conforms to what it considers here a minor site change--

approve it. If it is a more extensive change to the site plan, it would go to the Planning Board. If the applicant didn't like the decision made, he could go to the Planning Board. The rest of the section develops what is a handicapped space and how many are required and what the sizes are. She stated the purpose of the amendment is to make it easier for existing businesses to meet Federal Law.

Ken Mann asked the council to add a clause to be "reasonable" and not be so restrictive. He also asked about existing parking lots that are gravel and how they can meet the striping standards (an example of reasonableness). Jackie Cohen said that according to local regulations, if you have a gravel parking lot you are not required to pave it. She said there are federal standards dealing with what a parking should be. She said that the surface should be such that you could move a wheelchair. Ken Mann asked about handicap ramps. Ms. Cohen said the Planning Committee has decided not to deal with ramps at this point. Mr. Mann also felt that the Code Enforcement Officer should deal with these types of variances and not the Administrative Assistant. Ms. Cohen explained that because of the site review knowledge, the board chose the administrative assistant instead of the code enforcement officer.

MOVED AND SECONDED: That the Public Hearing be closed.
(Councilors Ruff & Bennett) (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the proposed amendments to the Freeport Zoning Ordinance be tabled until February 16, 1993. (Councilors Ruff & Veilleux) (7 Ayes) (0 Nays)

Item #24-93 To consider action relative to a Proposed Amendment to the Administrative Code. (Chapter 2)

MOVED AND SECONDED: That proposed amendment to the Freeport Administrative Code be subject to Public Hearing. (Councilors Bradley & Bennett) (7 Ayes) (0 Nays)

Mr. Olmstead said this amendment is to increase the Design Review Board from five members to seven members. He stated that a Design Review member asked that the Board have input into the selection process.

Mr. Arsenault felt that the current members shouldn't have input in the selection of new members and that the Appointments Committee should still make the selection.

Mrs. Ruff said that this is the only committee that has five members. Mr. Bennett asked why the issue of having only five members was brought up. Mr. Nelson said that the Appointments Committee came up with the idea. He said that the committee needed more diversity. Mr. Goddard said that for the committee to have a quorum they only needed to have three members present and a majority then was two members.

Dave Thompson said the committee is full standing and not advisory. When the committee was created in the 80's, five members were adequate. He feels that with seven members you have a better chance of having more people voting on the issues.

Amy Arsenault expressed her concerns that members of the council would be serving on this committee. Mr. Goddard explained that the council would not be serving on the Design Review Committee. He said the Councilors only serve on the sub-committees.

Mrs. Ruff stated that this is an opportunity for more people to be involved in town activities.

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

MOVED AND SECONDED: That the proposed amendment to the Administrative Code be tabled until February 16, 1993. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

Item #25-93 To consider action relative to a proposed amendment to the Design Review Ordinance. (Chapter 22) Mr. Goddard stated that this motion is a rehash of the previous motion -- it resides in two places in the charter.

MOVED AND SECONDED: That the proposed amendment to the Design Review Ordinance be subject to Public Hearing. (Councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

Mr. Olmstead stated that we have two ordinances that speak to the number of representatives. First is the Administrative Code and the second is the Design Review Code. This will make sure that the two ordinances are consistent.

Ken Mann stated that the Wakeland Decision says that an applicant must know, and be able to understand, clear understandable and readable standards in any ordinance so that he'll know whether his project passes or fails before he gets to the board. He learned about this decision from the Pownal Planning Board and wonders why our attorneys didn't let the council know about it. He feels that The Design Review Ordinance clearly does not meet the constitutional test of the Yarmouth vs. Wakeland Decision and that we should take a look at it.

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

MOVED AND SECONDED: That the proposed amendment to the Design Review Ordinance be tabled until February 16, 1993. (Councilors Veilleux & Ruff) (7 Ayes) (0 Nays)

Item #16-93 (Tabled January 19, 1993) To consider action relative to proposed amendments to the Zoning Ordinance. (Chapter 21)

Mr. Goddard stated that he was unable to attend the Public Hearing on this proposal. He gave some history on this amendments. He said this issue came up as a result of the Rotary expressing their concerns about the loss of sales of Christmas Trees due to the peddler that set up across from L. L. Bean. The question came up as to who the peddlers were in our community. The answer was that very few peddlers on private property happen to be residents of Freeport. The next question was--should we look at private property peddlers to

benefit one group in town? As the Rotary turns all revenues back into the town--the answer was yes. Vaundella Curtis and Mr. Goddard looked into the situation and it went to the Planning Board. He felt that the Planning Board, in looking at this amendment, was just trying to make certain that the people that live here benefit from the private property peddlers. Last week the council held a workshop on this amendment and reviewed the specific comments that were made during the public hearing and came up with nine major revisions to the amendments. Mr. Bradley proposed that the council take time to review the changes and discuss taking the amendment to public hearing.

Discussion revolved around the nonprofit/charitable category in Article 1, Section 104 and in Section 501. C. Pat Pooters would like to see the wording exclude all religious and charitable organizations.

Barbara McGiveran and Ken Mann would like to see the issue of grandfathered peddlers addressed in this ordinance. Ken Mann stated that some of the peddlers have gone through site plan review. It was recommended that Section 526 be investigated and a recommended change be brought forth.

As the changes made at the council workshop meeting included limiting this amendment to the down town area, Mr. Nelson asked for time to meet with his district to discuss these changes.

Mr. Bradley and Mr. Veilleux asked to be able to look at this amendment again with all the changes in black and white at another time. Mr. Goddard stated that the town attorney said that if there is an ordinance proposed that is changed to be "slackened" from what was heard in Public Hearing, we aren't required by the town charter to go to Public Hearing again. He said the council will do what the majority of the council wishes to do.

Recommendations were made for changing the wording regarding the permitting process, truck restrictions, dress regulations, and lighting requirements.

Mr. Bradley asked for an enforcement section be added to avoid lengthy court time.

MOVED AND SECONDED: That the proposed amendments to the Freeport Zoning Ordinance dealing with Private Property Peddler Regulations be tabled indefinitely. (Councilors Nelson & Veilleux) (7 Ayes) (0 Nays)

MOVED AND SECONDED: To take an item not on the agenda. (Councilors Nelson & Arsenault. (7 Ayes) (0 Ayes)

MOVED AND SECONDED: That we consider action relative to the proposed amendments to the Zoning Ordinance as Item #27-93 and set a Public Hearing for 7:30 on Thursday, February 25 at a Special Council Meeting. **BE IT FURTHER ORDERED:** That 30 copies be distributed equally between the Town Clerk's Office and the B. H. Bartol Library for inspection by citizens. (Councilors Nelson & Arsenault) (7 Ayes) (0 Nays)

Item #17-93 (Tabled January 19, 1993) To consider action relative to an amendment to the Directional Sign Ordinance. (Chapter 24)

MOVED AND SECONDED: That the proposed amendment to the Directional Sign Ordinance, as submitted to Public Hearing on January 19, 1993, be approved. (Councilors Bennett & Veilleux) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Discussion of future Parking Lot Lease Agreements.

Mr. Olmstead said that the Historical Society is proposing to lease a single space to B & D Realty. The issue is that with lease agreements in the past, if someone defaults and we have to collect -- who is responsible for the legal fees for collection. The only time in the past, the town has been involved in collecting a defaulted lease, the party that had the lease with the town, insisted the town absorb the legal costs of collecting the fee plus the money. The town ended up spending \$2,000 legal cost to collect the fee for which it collected 5%. The Town Attorney recommended a change in the sub-lease section 5 E which states: "The landlord (the town) is not responsible for either the payment of the lease fees, which are the sole responsibility of the towns, or for any legal expenses incurred by the owner or the town in the collection of these fees."

Kim Shepard, representing the Historical Society, stated that it is awkward for the Society to collect this money and does not have the money to hire lawyers to collect it. She said the town has the right to get the money back without paying any legal costs but the Historical Society can't do the same. She recommended that the collection process be changed.

Mr. Bradley asked Kim Shepard to put in writing a registration proposal to present to the council for consideration.

2. Discussion on Proposed Staff Development Policy.

Mr. Olmstead said that he has drafted a Staff Development Policy which he presented at a staff meeting that day. He has also presented it to the Council Chair and Co-Chair. He has made the recommended changes to it. He said the objective was to provide municipal employees with appropriate training opportunities to keep current in their fields of expertise and also provide the public with quality service. Supervisory personnel would be required to take at least two full-day seminars a year. One seminar would be directly related to their field and the second would be directly related to communications, public relations, and team building. The support staff or non-supervisory personnel would be required to take a one-day session designed to improve team building, communications, or public relations skills and would be offered other training as deemed appropriate by their supervisors. He recommended in-house workshops, training sessions, workshops sponsored by the Maine Municipal Association and professional organizations, workshops sponsored by local area businesses, nonprofit organizations, universities, and workshops offered by private concerns. The Department Heads would be expected to pay for these programs out of existing accounts. Support staff would have to come before the council in the next FY '94 budget. Mr.

Olmstead has contacted the Maine Municipal Association, Greater Portland Council of Governments, and the University of Maine--all have some programs that would be beneficial and all have low cost or no cost programs that he thinks would be beneficial. Mr. Olmstead said that he talked with L. L. Bean and they said they would be willing to provide trainers for an in-house program. He said that he would assign an in-house person to make sure everyone meets their obligations. He would like to implement this policy as soon as possible. It was the consensus of the Council that he do so.

3. Update on closure of Freeport's Demolition Site.

Mr. Olmstead said that the town is still negotiating with DEP. He met with the Cumberland county legislative delegation. There has been two different bills introduced in the legislature--one was an emergency measure and one a non-emergency. These would extend closures for one more year. The Governor does not want the legislature to pass an extension. The Governor has asked Dean Marriot to sit down with various groups around the state and reach an understanding on how they are going to make the transition between having local demolition sites and regional sites being developed statewide. He is meeting with Dean Marriot on Wednesday with other town managers to have that discussion. Their position will be that they want all sites that are not polluting to remain open until fall when the Gorham site opens. He feels that the town is making progress and that the extension will be granted.

4. Discussion on request from L. L. Bean for the use of Bow Street Park on July 4.

Mr. Olmstead said that he received a letter from L. L. Bean requesting permission to use the Freeport Town Park for the 4th of July Road Race. The council was in favor of allowing L. L. Bean to do this.

5. Update on Library Options and Public Hearing.

Councilman Arsenault recommended holding a Public Hearing to discuss the future of the Public Library. Councilmen Nelson and Bradley were also in favor of a Public Hearing. The Council would like to hear from the staff as to what is needed to provide better service. Mr. Olmstead said that the staff feels the existing facility is inadequate. Mr. Nelson suggested holding a joint meeting of the Library Board and the Municipal Facilities Committee.

OTHER BUSINESS:

Chairman Goddard said that he appointed four people to the Harbor Master Selection Committee. They are Jeff Wescott and Katrina VanDousal as representatives from the Coastal Waters Commission and Ed Bradley and himself will represent the Council along with the Police Chief. There is a meeting set for next Wednesday and the resumes will be sent out for review. They hope to narrow the resumes down and prepare to hold interviews.

Item #26-93 To consider action relative to an Executive Session.

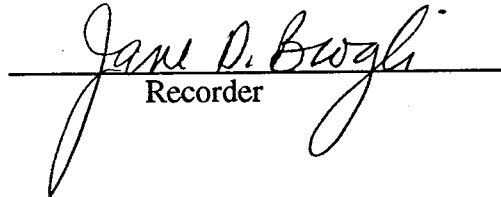
MOVED AND SECONDED: To table the Application for Property Tax Abatement till 7:30 on February 16th during the Executive Session.
(Councilors Nelson & Bennett) (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the Town Council enter into Executive Session to discuss a personnel matter. (Councilors Nelson & Bennett)
(7 Ayes) (0 Nays) Councilman Veilleux asked to be excused from the Executive Session.

MOVED & SECONDED; To reconvene. (Councilors Bradley & Arsenault) (7 Ayes) (0 Nays)

MOVED & SECONDED; To adjourn at 12:15 p.m. (Councilors Nelson & Ruff) (7 Ayes) (0 Nays)

The foregoing was recorded by: Jane D. Brogli


Recorder

~~PROPOSED~~ AMENDMENT TO THE DIRECTIONAL SIGN ORDINANCE
[CHAPTER 24]

ARTICLE II REGULATIONS

Section 201 Sign Regulations

201.3 Location

- (a). Official business directional signs are prohibited in the Village Commercial Zone, as described on the Official Zoning Map of the Town of Freeport; on Mallet Drive; on the Desert Road between U. S. Route 1 and Hunter Road; on Bow Street to the Bow Street Market; and on U. S. Route 1, except between the Southern Freeport Municipal Boundary and the South Freeport Road and between Pine Street and the intersection of U. S. Route 1 and Desert Road on the easterly side of U. S. Route 1 and between the intersection of Desert Road and U. S. Route 1 northerly 420 feet on the westerly side of U. S. Route 1 for businesses located west of U. S. Route 1 and within 500+ feet on either side of the intersection of the Old County Road and U. S. Route 1 South only for health care providers located westerly of the intersection.