

RESCHEDULED

FREEPORT TOWN COUNCIL MEETING #4-93

FEBRUARY 25, 1993 - COUNCIL CHAMBERS - 6:30 P.M.

- ITEM #28-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION TO CONSIDER AN APPLICATION FOR A POVERTY TAX ABATEMENT.
- ITEM #29-93 TO CONSIDER ACTION RELATIVE TO RE-APPLICATIONS FOR VICTUALER LICENSES FOR PAUL KELLEY, JOHN CALLINAN, LY-SU CORPORATION, JAMES HENDRY AND THOMAS HUDAK (PUBLIC HEARING)
- ITEM #30-93 TO CONSIDER ACTION RELATIVE TO A RE-APPLICATION FOR A FULL TIME MALT, SPIRITUOUS & VINOUS LICENSE FOR THE CHINA ROSE. (PUBLIC HEARING)
- ITEM #31-93 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE ZONING ORDINANCE CONCERNING PRIVATE PROPERTY PEDDLER REGULATIONS. (CHAPTER 21) (PUBLIC HEARING)
- ITEM #32-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE CONSERVATION COMMISSION
- ITEM #33-93 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE RULES FOR WINSLOW PARK. (CHAPTER 34)
- ITEM #34-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE SOLID WASTE/RECYCLING COMMITTEE
- ITEM #35-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE SOLID WASTE/RECYCLING COMMITTEE
- ITEM #36-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE SOLID WASTE/RECYCLING COMMITTEE
- ITEM #37-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE WINSLOW PARK COMMISSION
- ITEM #38-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE WINSLOW PARK COMMISSION
- ITEM #22-93 TABLED FEBRUARY 2, 1993, TO CONSIDER ACTION RELATIVE TO A PROPOSED VENDING MACHINE ORDINANCE (CHAPTER 45)

PLEASE TURN OVER

ITEM #23-93

TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE. (CHAPTER 21)

ITEM #24-93

TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE ADMINISTRATIVE CODE. (CHAPTER 2)

ITEM #25-93

TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE DESIGN REVIEW ORDINANCE. (CHAPTER 22)

OTHER BUSINESS:

1. REPORT ON PROPOSAL BY COUNCILOR RUFF FOR A FORUM TO DISCUSS SCHOOL AND MUNICIPAL SERVICES.
2. DISCUSSION ON STATE PROPOSAL TO ELIMINATE SHELLFISH BIOLOGISTS.

END OF AGENDA

Freeport Town Meeting # 4-93
Freeport Town Hall Council Chambers
February 25, 1993 - 6:30 P.M.

Regular X Special

Chairperson's Call To Order

Present

Absent

Excused

Kirk Goddard, Chairman, Mast Landing
Edward Bradley, Flying Point
Andrew Arsenault, U.S. Route #1
John Nelson, Vice-Chairman, Church Street
Cary Veilleux, Wardtown Road
Randall Bennett, Park Street
Elizabeth Ruff, Durham Road

X
X (Arrived at 7:50
X
X
X
X
X

FIRST ORDER OF BUSINESS:

MOVED & SECONDED: To waive the reading of the minutes of Meeting #3-93 held February 2, 1993 and accept the minutes as printed. (Councilors Veilleux & Arsenault) (6 Ayes) (0 Nays)

MOVED & SECONDED: To amend the #3-93 Minutes as follows:
Amend page 5, line one to read AmyAdams instead of Amy Arsenault; and amend page 9 Item #26-93--votes to reconvene and adjourn should read 6 Ayes and 0 Nays. (Councilors Veilleux & Nelson) (6 Ayes) (0 Nays)

Item #28-93 To consider action relative to an executive session to consider an application for a poverty tax abatement.

MOVED AND SECONDED: That the Council enter into Executive Session to discuss an application for a poverty tax abatement. (Councilors Arsenault & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Council reconvene. (Councilors Veilleux & Nelson) (6 Ayes) (0 Nays)

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

Bill Pushard expressed concern about the possibility of the loss of one peddler permit. He had heard that one may be given to a charitable group.

Peter Moulton expressed concern about the loss of a permit also and wanted to know who on the council is in favor of this.

Chairman Goddard stated he will be making a presentation of this proposal on March 2. He has presented his ideas to the Lions Club and the Rotary.

Barbara McGiveran expressed her concern about having to attend the council meeting every two weeks and ask for the council to do things up front. She was concerned that the loss of a permit will affect someone's livelihood.

Amy Adams feels that this issue is very unfair to peddlers. She said that she has traveled all over the country and has seen many peddlers and doesn't feel that Freeport has any problem. She said she had a call from Augusta and heard this comment—"it's too bad that the town of Freeport can't be honest." She said it's too bad that the town has a reputation of being so dishonest and she feels that this is dishonest. (what you're trying to do).

John Forest felt that the peddler issues should be treated in an open and honest fashion that everyone can understand. He stated that the Army Corps of Engineers has decided to bring the case (Wetlands issue at Mast Landing School) back to Augusta to have a finding of facts on the case. He believes that there should be a public hearing (it was denied in January) on the Wetlands Case. The Conservation Committee will be giving the council a report on this issue.

Item #28-93 **MOVED AND SECONDED:** That an abatement of \$775.93 plus interest and fees due on the tax bill of 1991-92 for property on Tax Map 5A, Lot 77 be granted. (Councilors Ruff & Bennett) **ROLL CALL VOTE** (6 Ayes) (0 Nays)

Item #29-93 To consider action relative to reapplications for victualer licenses for Paul Kelley, John Callnan, Ly-Su Corporation, James Hendry and Thomas Hudak. (Public Hearing)

MOVED AND SECONDED: That the Council adjourn and the Licensing Board convene. (Councilors Ruff & Veilleux) (6 Ayes) (0 Nays)

Roll Call of Members:

Kirk Goddard
Elizabeth Ruff
Andrew Arsenault
John Nelson

Cary Veilleux
Randall Bennett
Dale Olmstead

MOVED AND SECONDED: That the following applications for Victualer Licenses be subject to Public Hearing: Paul Kelley, d/b/a Hot Dog Food Cart (Private Property), 76 Main Street; John Callnan, d/b/a Cedar Haven Campground, 21 Baker Road; Ly-Su Corporation, d/b/a The China Rose, 10 School Street; James Hendry, d/b/a Harborside B & B, 14 Main Street; and Thomas Hudak, d/b/a Maple-Hedge B & B, 22 Park Street. (Councilors Ruff & Veilleux) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Ruff & Bennett) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the applications for Victualer Licenses issued to the above named applicants, be approved. (Councilors Ruff & Veilleux) **ROLL CALL VOTE** (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Licensing Board adjourn and the Council reconvene. (Councilors Ruff & Bennett) (6 Ayes) (0 Nays)

Item #30-93 To consider action relative to a reapplication for a full time Malt, Spirituous & Vinous License for the China Rose. (Public Hearing)

MOVED AND SECONDED: That the following reapplication for a full time Malt, Spirituous & Vinous License be subject to Public Hearing: Cuong Ly, d/b/a The China Rose Restaurant, 10 School Street. (Councilors Veilleux & Bennett) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Veilleux & Ruff) (6 Ayes) (0 Nays)

MOVED AND SECONDED: That the reapplication for a full time Malt, Spirituous & Vinous License issued to the above named applicant be approved. (Councilors Veilleux & Ruff) (6 Ayes) (0 Nays)

(Ed Bradley arrived.)

Item #31-93 To Consider action relative to proposed amendments to the Freeport Zoning Ordinance concerning Private Property Peddler Regulations. (Chapter 21) (Public Hearing)

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

Jackie Cohen stated that at the last council meeting, the council discussed the version of the Peddler Ordinance that the Planning Board had sent on and suggested various amendments. She said that what is before the council is the second version that is now subject to public hearing. She briefly summarized the changes as follows:

- An agricultural farm stand is defined and is permitted everywhere in Freeport without regulation.
- Freeport-based is also defined because that refers to the religious, charitable, and non-profit organizations—there is a distinction of what is permitted by Freeport-based organizations and non-Freeport based organizations.
- The peddler on private property is permitted everywhere in Freeport, in every zone and it is regulated in three zones—VC-I, VC-II, and VC-III.
- A peddler truck is defined—it's a truck from which only unprocessed food such as seafood, fruits, and vegetables are sold and that is permitted everywhere in Freeport except in the VC-I, VC-II, and VC-III..
- Another change is that educational, religious, etc., nonprofit organizations are permitted to conduct their peddler operations without restrictions.
- The issue was raised at the last public hearing about the number of existing peddler carts that were grandfathered and after going through the history of victualers permits, they found that only one was grandfathered that had the status of a nonconforming use. She stated that it was Bill Pushard's permit. Mr. Arsenault raised the possibility of the peddler on the Laundromat property. Jackie Cohen said she will check that out.
- Lemonade stands, operated by a minor on a parent's property, are permitted everywhere.
- The non-Freeport based religious, charitable, etc., peddler activities are limited to 15 days a year and are considered a temporary activity. They could come to the Planning Board for more than 15 days a year.
- The Mobile Food trucks (lunch trucks) are not regulated by this ordinance and therefore not permitted (requires a victualer's license).
- Dave Thompson wrote new requirements for lighting—page 8.

- There is a section on enforcement, page 10, that makes it possible for the CEO to be more active in the enforcement of this ordinance. He is able to require, if the peddler is in violation, that the peddler make the correction. It has to be corrected within five days. There are fines and suspension of the permit.

Andy Arsenault felt that the appeal process should be included—time period, who to appeal to, and what happens if he doesn't appeal, etc. Jackie Cohen said that they could include an appeals process in this ordinance.

Councilor Bradley is concerned about the fact that this ordinance would open the entire town up to peddlers. He said that John Nelson had persuaded him that this issue of peddlers throughout the town deserves further consideration. He recommended that the council accept John's suggestion that this part—the issue of peddlers other than in the down town—go back to the Planning Board for their consideration and recommendation. He offered to meet with the Planning Board to help them on this issue.

Councilor Nelson said that he appreciated Mr. Bradley's concern. He recommended that the council leave the zoning ordinance as it is except bringing forward what the Planning Board originally brought to us—permitting and regulating of peddlers in all the commercial zones. Jackie Cohen said that the first version the Planning Board brought forward would have regulated peddlers along the entire Route 1 corridor from Yarmouth to Brunswick. Those were the only zones in that version where peddlers were permitted and where they were permitted, they were regulated. John Nelson recommended incorporating the other consensus amendments the council worked on and agreed to, except opening up the rest of the zones to peddlers without regulation—that would be sent back to the Planning Board for discussion. Mr. Goddard said that this proposal would allow peddling, such as agricultural peddling, throughout other areas of the town. Support for this proposal was expressed by Councilors Ruff, Bradley, Bennett, and Nelson. John Nelson said the attempt is to take just this one issue back to the Planning Board. Chairman Goddard says there was a consensus to have this document amended to have the current zoning ordinances enforced throughout town excluding the Route 1 corridor, which will go from one end of town to the other, allowing peddling in those areas with restrictions with the request going to the Planning Board for review of peddling in other areas of town and regulation thereof. Mr. Goddard said the council will discuss later this evening on whether or not we will have a public hearing. Mr. Arsenault said that he thought we ought to say where we don't want peddlers instead of saying where we want to regulate.

Randy Bennett asked that the document be worded so that it covers anybody that currently exists and is doing business. Jackie Cohen stated that on page 3, section 526A, second paragraph, "location of any peddler on private property who has held a victualer's license ...prior to July of 1986 (date of adoption of these amendments) is grandfathered. Only one location has acquired the status of a legal nonconforming use" and that is Bill Pushard. If there is another one it would be Louie Corliss.

Mr. Olmstead said that he and Jackie Cohen need to understand where the council is going so that they can produce another document to bring back to council. He said that if there is another hearing held, and assuming that it is set at the April 6 meeting, we'd hold the public hearing on April 20 and vote on something at the May 4 meeting—which would take effect June 4. He said that would mean that we'd be into the peddler season and would have lost regulation for this year. Mr. Arsenault suggested taking it to Public Hearing, adopting it and

amending it and then there would be something on the books. Mr. Bradley suggested setting the public hearing tonight. Mr. Olmstead said that the council could set the public hearing for March 16 and then make sure Jackie Cohen clearly understands what type of document would be brought to that public hearing. Kirk Goddard asked the audience if everyone understood what the council was trying to do.

Tom Rumpf said that he was a little confused about what the council wanted the Planning Board to do. He felt the board had not had a lot of input as to what the impetus for an ordinance was. He understood that some merchants had concerns. He said the board didn't talk about the residential zones because it wouldn't be allowed under the regular zoning ordinance. He said that the Planning Board would be happy to consider it again if that is the council's wish. Mr. Nelson confirmed that the Planning Board should discuss and have public input on looking at zones outside the VC zones down town as to whether any regulation is needed or whether they should be permitted at all or if permitted, what kind of regulations and in what area. Mr. Bradley and Mr. Nelson volunteered to attend the next Planning meeting. Mr. Rumpf expressed the Planning Board's concerns relative to the peddler trucks in the down town area and whether the council wants to allow them anywhere, since this ordinance would make them exempt. If the ordinance is passed as it is now, basically anyone can drive a truck with vegetables or seafood anywhere in town and park it and sell material as long as they are not blocking public way. The council asked the Planning Board to discuss trucks allowed anywhere.

Ken Mann said that these peddler ordinances come under Chapter 21 which is a Land Use Ordinance and the Land Use Ordinances are based on the Comprehensive Plan. There is some language in the Comprehensive Plan about regulating peddlers but also it guaranteed a dual legislative process--that process goes from the Planning Board to the Council. He said what we need to have for a new ordinance, for other sections of town, is some input to the Planning Board. The Planning Board needs to draft an ordinance, and there needs to be a public hearing on that ordinance before it comes to the council and then at that time a public hearing should be set for that ordinance. He said that if the council is talking about setting a public hearing now about some future ordinance that hasn't been proposed--it's out of line on the process. Mr. Bradley explained that is not what the council is doing. He expressed confusion about whether peddlers are permitted in other parts of town now.

Jackie Cohen said that the interpretation of the codes department was that in zones, where restaurant use and retail sales are permitted whether they are in permanent structures or not in permanent structures--if that use is permitted and the use is listed as a use that requires site plan review--it should have gone to site plan review. It is a permitted use. She said what has happened over a number of years is that the use has been permitted without site plan review so it has been permitted (allowed).

Mr. Olmstead stated that in 1987 when that code enforcement decision was handed down, the council realized that decision or opinion would eliminate private property peddling because it would be a rare occasion that anyone could meet the regulations. That council instructed the manager to instruct the staff not to enforce the zoning ordinances with respect to private property peddlers. He said the staff has not enforced that ordinance since that day. He said that it has been labeled the Hartnett decision. Mr. Olmstead said that until that is reversed, he and Fred Reeder feel an obligation to follow that direction. Mr. Bradley said that as soon as this ordinance is passed, this direction would go by the boards.

Tom Rumpf pointed out that he was mistaken and that the ordinance has been redrafted and doesn't allow vending from peddler trucks in the VC-I, II or III.

Rick Green pointed out that Peddler trucks are defined on the bottom of page one as "a truck that sells unprocessed food located either on private property or on the street right-of-way" but on the top of page 2 "peddler trucks are permitted everywhere in town." He expressed his concern that the town is not reserving their right to regulate a truck which is on the street right-of-way. He also stated that the town has always taken a broad view of grandfathering--anything which has been allowed, no matter how potentially harmful it is, the council has tended to take a hands-off view saying that they don't have the right to regulate it because it was permitted in the past. He said he wasn't convinced it was an appropriate view for a town to take if the citizens agree that it is harmful--he doesn't feel it's appropriate to take a hands-off view and sort of admit defeat before they begin. It is an appropriate subject and if it's something harmful and you want to regulate it, he thinks the council should. He said that historically there has been a very broad view of grandfathering. He said that it should be recognized that whatever is specifically permitted here, the council may be creating a situation in the future where they will be unable to regulate it. For example, if you have a situation where someone, under the authority of the ordinance, sets up a peddler truck that's under the ordinance somewhere and goes through a season--are you creating a situation where you are unable to regulate that in the future because you are grandfathered? If you do allow peddlers to operate all over town and a peddler sets up on the wharf, are you going to accept the argument that those are grandfathered and any future regulation will only apply to new peddlers? He urged that the council be careful about grandfathering. Ed Bradley suggested a sentence that said *nothing in this section shall prevent future regulation of these activities and the locations on which they occur*. He urged that the council have the town attorney look over this document regarding grandfathering.

Amy Adams expressed concern about too many laws and legislation--she doesn't understand the need for all these regulations.

Peter Moulton expressed concern about page 9, number 11. The ordinance reads: "Cart operators shall dress in a neat and clean manner. Shoes, shirts, pants and/or dresses are required." He said that he objects to regulating what people wear. He recommends taking this part of the ordinance out completely.

Ken Mann said that on page 126 of our zoning ordinance, chapter 21 "any order or decision of the code enforcement officer can be appealed to the Board of Appeals and the Codes Enforcement Officer's decision can be overruled by a majority vote of the members present." He feels that this works for the ordinance. He said that the current process leaves the peddler out of business during the appeals process. Mr. Bradley agreed that this issue should be looked into.

Pat Pooters thanked the council for listening to the concerns of the charitable organizations and giving them an exclusion.

Bill Pushard expressed concern that the setback rule says that the cart should be four feet back. He asked that it be changed to three feet as it is really a hardship. He also commented that the agenda was printed on hot pink paper and is really noticeable and thinks that hot pink should be allowed.

Betsy Ruff suggested that on page 9, number 11, the second sentence be eliminated. She also suggested that on page 6, 2E, that we go to three feet instead of four feet. She said that colors get honorable mention.

Mr. Bradley suggested that the town attorney look into the issue, under section 201, of whether some modification to make it clear that we could regulate those excepting uses in the future and advise us whether we can appropriately add it to that or whether we're covered without adding it. He would also like to see the language on peddler truck --"or on the street right-of-way" looked at.

Chairman Goddard asked for a consensus on the suggested dress code and setback requirement change made by Betsy Ruff--there were no objections by council members. He asked if there were any objections to Ed's suggestion of a note to be included regarding future regulation--no objections from council. He also asked if there was any objection to clarification to the truck peddler requirement--no objections from council.

Randy Bennett stated that he would like to see the appeals process for this ordinance go through the Board of Appeals. Councilors Bradley, Ruff, Nelson, and Goddard were not in favor of writing additional guidelines. Councilors Veilleux, Bennett, and Arsenault were in favor of the change.

Councilor Arsenault suggested that on page 7, item 7 b, that neon and fluorescent be permitted. Bill Pushard suggested the neon and fluorescent colors be allowed on menu boards. Mr. Nelson suggested striking page 8, 8.f.3., allowing the signs to be any color and leave the colors as they are for the carts themselves. There was a consensus to support Mr. Nelson's suggestion.

Mike Doughty objected to page 8, section 8 b., the wording relating to the signs "permanently secured". He said that he likes to take them off so they will last longer. There was a consensus of the council to take "permanently" out.

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

Mr. Nelson suggested that on Page 2, strike the second sentence, *peddler on private property* and add the zones MD, C-I, C-II, C-III, LD, and I-1 which was in the original document from the Planning Board. There was a consensus of the council to do so.

MOVED AND SECONDED: That we table Item #31-93 until March 16, 1993. (Councilors Bennett & Nelson) (7 Ayes) (0 Nays)

MOVED AND SECONDED: To take an item not on the agenda.
(Councilors Nelson & Bennett) (7 Ayes) (9 Nays)

MOVED AND SECONDED: That we hold a Public Hearing on March 16, 1993 on the proposed amendments on the zoning ordinance concerning Private Property Peddler Regulations. (Councilors Nelson & Ruff) (7 Ayes) (0 Nays)

Item #32-93 To consider action relative to an appointment to the conservation commission.

MOVED AND SECONDED: That Elizabeth Hardin be appointed, effective immediately, to serve as a member of the Conservation Commission until September 1, 1995. Be it further ordered that Ms. Hardin qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Arsenault & Ruff) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #33-93 To consider action relative to proposed amendments to the Rules for Winslow Park. (Chapter 34)

MOVED AND SECONDED: That a Public Hearing be scheduled for March 16, 1993 at 7:30 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Rules for Winslow Park. Be it further ordered that 30 copies be made and distributed equally between the Town Clerk's Office and the B. H. Bartol Library for inspection by citizens. (Councilors Veilleux & Ruff) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #34-93 To consider action relative to a reappointment to the Solid Waste/Recycling Committee.

MOVED AND SECONDED: That Vickie Lowe be reappointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996. Be it further ordered that Mrs. Lowe qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Bradley & Ruff) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #35-93 To consider action relative to a reappointment to the Solid Waste/Recycling Committee.

MOVED AND SECONDED: That Tade Mahoney be reappointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996. Be it further ordered that Mr. Mahoney qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Ruff & Bennett) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #36-93 To consider action relative to a reappointment to the Solid Waste/Recycling Committee.

MOVED AND SECONDED: That Claire Betze be reappointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996. Be it further ordered that Ms. Betze qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Nelson & Ruff) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #37-93 To consider action relative to a reappointment to the Winslow Park Commission.

MOVED AND SECONDED: That Wayne Hollingworth be reappointed, effective immediately, to serve as a member of the Winslow Park Commission until March 1, 1996. Be it further ordered that Mr. Hollingworth qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Bradley & Nelson) (7 Ayes) (0 Nays)

Item #38-93 To consider action relative to a reappointment to the Winslow Park Commission.

MOVED AND SECONDED: That Charles Gould be reappointed, effective immediately, to serve as a member of the Winslow Park Commission until March 1, 1996. Be it further ordered that Mr. Gould qualify by swearing an oath of office before the Town Clerk by March 5, 1993. (Councilors Nelson & Arsenault) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

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

MOVED AND SECONDED: That the proposed Vending Machine Ordinance, as submitted to Public Hearing on February 2, 1993, be approved. (Councilors Ruff & Nelson) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #23-93 Tabled February 2, 1993. To consider action relative to proposed amendments to the Freeport Zoning Ordinance.

MOVED AND SECONDED: That the proposed amendments to the Freeport Zoning Ordinance relating to the setback revisions, as submitted to Public Hearing on February 2, 1993, be approved. (Councilors Veilleux & Ruff) (6 Ayes) (1 Nay Bennett)

Chairman Goddard suggested that the council deal with the **setback revision** first.

Tom Rumpf said that the Planning Board had a request from the motel on the corner of the South Freeport Road and Route 1. When the current zoning ordinance was adopted, it had mandatory setbacks on Route 1 South and also on the C-II district along the South Freeport Road. On that particular lot, on the corner, because of the two setbacks from South Freeport Road and Route 1 there is essentially no buildable area on the lot. It's a grandfathered building that is on the lot now. The Planning Board came up with a proposal to allow a variance and after discussions with the Council there were some further changes made--the current draft would allow variances along South Freeport Road to allow additional development which is no closer to South Freeport Road than existing nonconforming buildings on the same lot which would allow three of the four lots, which have existing nonconforming lots. The town attorney recommended that the second sentence be revised to "*only*" to allow.

MOVED AND SECONDED: To amend the ordinance as recommended by the town attorney: Setback variances may be granted along South Freeport road to *only* (change) allow additional development which are no closer to South Freeport than existing nonconforming buildings on the same lot. (Councilors Nelson & Ruff) (6 Ayes) (1 Nay - Arsenault)

MOVED AND SECONDED: To amend Sec. 410 C-II District, D.6. to read: Setback variances from U. S. Route 1 and South Freeport Road are permitted. (Councilors Arsenault & Bennett) (2 Ayes) (5 Nays - Veilleux, Nelson, Ruff, Bradley, Goddard)

Handicapped Parking Requirements Revision:

Jackie Cohen stated that residents had called her with concern as to what these regulations would be applied to. There was concern that these regulations would be applied to every development in town and every use in town including home occupations. The intent was that they only apply to sites that require site plan review and I felt that if that's not clear, let's make it clearer. She suggested in a memo, she sent to the council, that adding a sentence that this only applies to site plan review. She said that in our existing ordinance if you amend the plan you have to come to the Planning Board. This would provide people with a shortcut--if what they are proposing is minor, they would just come in and get an administrative review, they wouldn't have to go to the Planning Board. Only if what is proposed are major changes and amendments to that site plan would they have to go to the Planning Board. This is a quick process for someone who wants to change their parking spaces--is doing something very simple like some striping or may end up losing spaces and not having enough spaces to meet our ordinance requirements. It is an easy way to go through what needs to be done and also get a certificate that says you still conform to the zoning regulations.

Ken Mann said that according to the ADA laws, he has to put up a handicapped parking sign. As there is a federal law requiring these signs, he has to put it up. He asked if he put his sign up today would he be in violation of any local law as it would remove one parking space and he would be out of compliance. Jackie Cohen said he should come to her and she would prepare a certificate of conformance. Ms. Cohen stated that the latest proposed change would only apply to developments that are subject to site plan review.

Louie Marsteller said that the council should look at the whole issue--parking, access, and ramps. He said when you make ramps you make more impervious surface. This ordinance says that if you have additional impervious surface you have to go to site review. He feels that if you are doing something to comply with Federal law, you shouldn't have to go to site review. He read his suggestion: "Any changes or loss in parking spaces for handicapped parking or changes in access routes, entrances, and the construction of ramps made to meet safety or civil rights laws or rules shall not invalidate any occupancy permit or require site plan review." He recommends tabling this issue so the Ordinance Committee can look at it again.

Susan Saunders said that the Planning Board has done a good job of trying to fit the jigs and jaws of federal laws into the local ordinance. She said the rule of ADA is "document, document, document." She said that the certificate from the town is very important in this process.

Councilor Bradley recommended that this item be tabled until the Ordinance Committee can look at this issue again.

MOVED AND SECONDED: That Item #23-93 the proposed amendments to the Freeport Zoning Ordinance relating to the ADA requirements as submitted to Public Hearing on February 2, 1993, be tabled until March 16, 1993. (Councilors Veilleux & Ruff) (7 Ayes) (0 Nay)

Mr. Bradley scheduled an Ordinance Committee meeting for March 10 at 7 a.m.

A letter in support of this amendment from L. L. Bean was submitted by Chairman Goddard and is attached to the minutes.

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, as submitted to Public Hearing February 2, 1993, be approved. (Councilors Arsenault & Veilleux) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #25-93 To consider action relative to a proposed amendment to the Design Review Ordinance. (Chapter 22)

MOVED AND SECONDED: That the proposed amendment to the Design Review Ordinance, as submitted to Public Hearing on February 2, 1993, be approved. (Councilors Bennett & Ruff) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Report on proposal by Councilor Ruff for a forum to discuss School and Municipal Services.

Betsy Ruff said that the committee, consisting of three members of the school department, Mr. Olmstead, Mr. Goddard, and herself, have been meeting with Ken Young of the Maine Municipal Association. They have a proposal from Ken to help facilitate an evening meeting in September but are unable to bring final recommendations to the council at this time. She hopes to bring the proposal for a community wide meeting to the next meeting.

2. Discussion on State proposal to eliminate shellfish biologists.

Councilor Veilleux said that a couple of clammers have approached him in regard to the state's proposal to cut the shellfish biologists. If the state chooses to cut the budget and the shellfish biologists lose their jobs, Maine could lose their certification to sell seafood in other states. This is of great concern to all the clammers. They have sent letters to the state delegation and have asked that the council also send a letter to the proper representatives. Mr. Bradley recommended that the town fund these biologists. He volunteered to write a letter that includes the fact that the town will hire biologists if the state cuts them. The council was in support of sending this letter.

3. Silver Bullets.

Mr. Olmstead asked for the council's approval to lend an old containers(silver bullets) to Biddeford. Biddeford would be responsible for transportation and any damage. The council approved this request.

MOVED & SECONDED: To adjourn at 11:15 p.m. (Councilors Veilleux & Arsenault) (7 Ayes) (0 Nays)

The foregoing was recorded by: Jane D. Brogli

Recorder

A G E N D A

COUNCIL MEETING #4-93

FREEPORT TOWN HALL COUNCIL CHAMBERS

FEBRUARY 16, 1993 - 7:30 P.M.

SPECIAL NOTE: This Agenda is a working Agenda that includes background information and is for the distribution to Council members only.

FROM: Dale C. Olmstead, Jr.

TO:

Kirk Goddard , Chairperson, Mast Landing Road
Edward Bradley, Flying Point Road
Andrew Arsenault, 287A U.S. Route #1
John Nelson, Church Street
Cary Veilleux, Wardtown Road
Randall Bennett, Park Street
Elizabeth Ruff, Durham Road

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of Meeting #3-93 held February 2, 1993 and accept the minutes as printed.

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

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

COUNCIL MEETING #4-93
FEBRUARY 16, 1993.

ITEM #28-93

TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION TO CONSIDER
AN APPLICATION FOR A POVERTY TAX ABATEMENT.

MOTION: That the Council enter into Executive Session to discuss an
application for a poverty tax abatement.

MOTION: That the Council reconvene.

ITEM #29-93

TO CONSIDER ACTION RELATIVE TO RE- APPLICATIONS FOR VICTUALER
LICENSES FOR PAUL KELLEY, JOHN CALLNAN, LY-SU CORPORATION,
JAMES HENDRY AND THOMAS HUDAK. (PUBLIC HEARING)

MOTION: That the Council adjourn and the Licensing Board convene.

Roll Call of Members:

Kirk Goddard
Edward Bradley
Andrew Arsenault
John Nelson

Cary Veilleux
Randall Bennett
Elizabeth Ruff
Dale Olmstead

MOTION: That the following applications for Victualer Licenses be
subject to Public Hearing.

Paul Kelley, d/b/a Hot Dog Food Cart(Private Property), 76
Main Street.

John Callnan, d/b/a Cedar Haven Campground, 21 Baker Road.

Ly-Su Corporation, d/b/a The China Rose, 10 School Street.

James Hendry, d/b/a Harborside B & B, 14 Main Street.

Thomas Hudak, d/b/a Maple-Hedge B & B, 22 Park Street.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the applications for Victualer Licenses issued
to the above named applicants, be approved.

MOTION: That the Licensing Board adjourn and the Council reconvene.

COUNCIL MEETING #4-93
FEBRUARY 16, 1993

ITEM #30-93 TO CONSIDER ACTION RELATIVE TO A RE-APPLICATION FOR A FULL TIME
MALT, SPIRITUOUS & VINOUS LICENSE FOR THE CHINA ROSE.
(PUBLIC HEARING)

MOTION: That the following re-application for a full time Malt,
Spirituos & Vinous License be subject to Public Hearing.

Cuong Ly, d/b/a The China Rose Restaurant, 10 School Street.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the re-application for a full time Malt,
Spirituos & Vinous License issued to the above named applicant,
be approved.

ITEM #31-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE
CONSERVATION COMMISSION.

BE IT ORDERED: That Elizabeth Hardin be appointed, effective
immediately, to serve as a member of the Conservation Commission
until September 1, 1995.

BE IT FURTHER ORDERED: That Ms. Hardin qualify by swearing
an oath of office before the Town Clerk by February 25, 1993.

ITEM #32-93 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE
RULES FOR WINSLOW PARK. (CHAPTER 34)

BE IT ORDERED: That a Public Hearing be scheduled for March 2,
1993 at 7:30 p.m. in the Town Hall Council Chambers to discuss
proposed amendments to the Rules for Winslow Park.

BE IT FURTHER ORDERED: That 30 copies be made and distributed
equally between the Town Clerk's Office and the B.H.Bartol Library
for inspection by citizens.

COUNCIL MEETING #4-93
FEBRUARY 16, 1993

ITEM #33-93

TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE
SOLID WASTE/RECYCLING COMMITTEE.

BE IT ORDERED: That Vickie Lowe be re-appointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996..

BE IT FURTHER ORDERED: That Mrs. Lowe qualify by swearing an oath of office before the Town Clerk by February 25, 1993.

ITEM #34-93

TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE
SOLID WASTE/RECYCLING COMMITTEE.

BE IT ORDERED: That Tade Mahoney be re-appointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996.

BE IT FURTHER ORDERED: That Mr. Mahoney qualify by swearing an oath of office before the Town Clerk by February 25, 1993.

ITEM #35-93

TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE
SOLID WASTE/RECYCLING COMMITTEE.

BE IT ORDERED: That Claire Betze be re-appointed, effective immediately, to serve as a member of the Solid Waste/Recycling Committee until January 1, 1996.

BE IT FURTHER ORDERED: That Ms. Betze qualify by swearing an oath of office before the Town Clerk by February 25, 1993.

COUNCIL MEETING #4-93
FEBRUARY 16, 1993

ITEM #36-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE
WINSLOW PARK COMMISSION.

BE IT ORDERED: That Wayne Hollingworth be re-appointed, effective, immediately, to serve as a member of the Winslow Park Commission until March 1, 1996.

BE IT FURTHER ORDERED: That Mr. Hollingworth qualify by swearing an oath of office before the Town Clerk by February 25, 1993.

ITEM #37-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE
WINSLOW PARK COMMISSION.

BE IT ORDERED: That Charles Gould be re-appointed, effective immediately, to serve as a member of the Winslow Park Commission until March 1, 1996.

BE IT FURTHER ORDERED: That Mr. Gould qualify by swearing an oath of office before the Town Clerk by February 25, 1993.

ITEM #22-93 TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO A
PROPOSED VENDING MACHINE ORDINANCE. (CHAPTER 45)

BE IT ORDERED: That the proposed Vending Machine Ordinance, as submitted to Public Hearing on February 2, 1993, be approved.

ITEM #23-93 TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO
PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE.
(CHAPTER 21)

BE IT ORDERED: That the proposed amendments to the Freeport Zoning Ordinance, as submitted to Public Hearing on February 2, 1993, be approved.

COUNCIL MEETING #4-93
FEBRUARY 16, 1993

ITEM #24-93 TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION RELATIVE TO A
PROPOSED AMENDMENT TO THE ADMINISTRATIVE CODE. (CHAPTER 2)

BE IT ORDERED: That the proposed amendment to the Administrative Code, as submitted to Public Hearing on February 2, 1993, be approved.

ITEM #25-93 TABLED FEBRUARY 2, 1993. TO CONSIDER ACTION TO A PROPOSED
AMENDMENT TO THE DESIGN REVIEW ORDINANCE. (CHAPTER 22)

BE IT ORDERED: That the proposed amendment to the Design Review Ordinance, as submitted to Public Hearing on February 2, 1993, be approved.

OTHER BUSINESS:

1. Report on proposal by Councilor Ruff for a forum to discuss School and Municipal Services.
2. Discussion on State proposal to eliminate shellfish biologists.

END OF AGENDA