

FREEPORT TOWN COUNCIL MEETING #6-93

MARCH 16, 1993 - 7:00 P.M. - COUNCIL CHAMBERS

SUMMARY AGENDA

ITEM #46-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION

ITEM #47-93 TO CONSIDER ACTION RELATIVE TO APPLICATIONS/RE-APPLICATIONS FOR VICTUALER LICENSES FOR EDWIN & BARBARA FOGG, PETER & BARBARA GUFFIN, MARK LANQUE, PETER MOULTON, L. ROBERT BOWE, AND FRANK POTE (PUBLIC HEARING)

ITEM #48-93 TO CONSIDER ACTION RELATIVE TO AN APPLICATION FOR A FULL TIME MALT, SPIRITUOUS & VINOUS LICENSE FOR THE JAMESON TAVERN. (PUBLIC HEARING)

ITEM #49-93 TO CONSIDER ACTION RELATIVE TO AN APPLICATION FOR A FULL TIME MALT LICENSE FOR SAM'S ITALIAN FOODS. (PUBLIC HEARING)

ITEM #50-93 TO CONSIDER ACTION RELATIVE TO A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION (PUBLIC HEARING)

ITEM #51-93 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE ZONING ORDINANCE CONCERNING PRIVATE PROPERTY PEDDLER REGULATIONS (CHAPTER 21) (PUBLIC HEARING)

ITEM #52-93 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE RULES FOR WINSLOW PARK (CHAPTER 34) (PUBLIC HEARING)

ITEM #53-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE RECREATION COMMITTEE

ITEM #54-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE COMMUNITY EDUCATION ADVISORY COMMITTEE

ITEM #55-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE DESIGN REVIEW BOARD

ITEM #56-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE DESIGN REVIEW BOARD

ITEM #57-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE COASTAL WATERS COMMISSION

PLEASE TURN OVER

ITEM #64-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION

END OF AGENDA

Freeport Town Meeting # 6-93
Freeport Town Hall Council Chambers
March 16, 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	(Arrived late - 7:32)	
Andrew Arseneault, 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 #4-93 held February 25, 1993 and Meeting #5-93 held March 2, 1993 and accept the minutes as printed.. (Councilors Nelson & Bennett) (6 Ayes) (0 Nays)

MOVED AND SECONDED: to amend the 5-93 Minutes, page 9, to read "the Sports Boosters raised \$14,000 for the school." (Councilors Goddard and Nelson) (6 Ayes) (0 Nays)

(Mr. Bradley arrived.)

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

Mary Kennedy expressed her concerns about the amount of time the public was allowed to speak during the Public Comment Period. She also expressed concern about the length of time Kirk Goddard was allowed to speak.

Russell Baker expressed concern about the accusation that Mr. Goddard made at the 3/2/93 Council Meeting and asked for an apology. Mr. Goddard apologized.

Amy Adams expressed concern about people at home being able to hear what is being said at the Council hearings. She requested that the microphones be fixed.

Ruby McDermott said that she appreciated Mr. Goddard's proposal.

Mr. Nelson urged everyone viewing the Council meeting to come and speak their mind. He said that the Public Comment Period used to be at the end of the Council agenda. This created a problem for a lot of the people as it could happen quite late in the meeting. A couple of years ago it was suggested to change the Public Comment Period to the beginning of the agenda and limited to 15 minutes. When it was determined that 15 minutes was not

long enough, the Ordinance Committee met with the Public and a new policy was created. This policy was endorsed by the Council. The new policy extended the Public Comment Period to 30 minutes. The three-minute limit for each person speaking was also part of the policy--the Council could extend this limit by a vote.

Mr. Veilleux commended the Public Works Department. He said they did a fantastic job of keeping the roads open during the night of the blizzard. He also commended the Fire and Rescue Personnel for volunteering and the Police Department for providing valuable services to vehicles that were distressed.

Ken Mann said that he attended the Ordinance Committee meeting that extended the Public Comment Period from 15 minutes to 30 minutes. There was also discussion about the three-minute rule. He said they were reassured, as members of the public, that if the comments were on a serious topic of discussion, they would never be cut off at three minutes. He felt that the interpretation was confused at the Council meeting and Mr. Goddard cut people off at three minutes.

Mr. Arsenault said that the greatest storm of the century is over and probably left two feet of snow. He reminded everyone that our 89-90 year old Fire Department building is still standing. He said that the Council was told, over a year ago, that the building was in imminent danger of the building collapsing because of an overload of snow.

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

Item #47-93 To consider action relative to a applications/reapplications for Victualer's licenses for Edwin and Barbara Fogg, Peter and Barbara Guffin, Mark Lanque, Peter Moulton, L. Robert Bowe, and Frank W. Pote. (Public Hearing)

MOVED AND SECONDED: That the Council adjourn and the Licensing Board convene (Councilors Arsenault & Bennett) **ROLL CALL OF MEMBERS:** (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the following applications/reapplications for Victualer Licenses be subject to Public Hearing: Edwin & Barbara Fogg, d/b/a Country Living Bed and Breakfast, 57 Wolf Neck Road; Peter & Barbara Guffin, d/b/a Porters Landing Bed and Breakfast, 70 South Street; Mark Lanoue, d/b/a Pretzellogic (Peddler), Bow Street; Peter Moulton, d/b/a Pete's Eats (Peddler), 17 School Street; L. Robert Bowe, d/b/a The Thirst Quecher (Peddler), Main Street; and Frank W. Pote, d/b/a Greenfields Store, 136-140 Main Street. (Councilors Arsenault & Ruff) (7 Ayes) (0 Nays)

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

MOVED AND SECONDED: That the applications/reapplications, for Victualer Licenses be issued to the above named applicants, be approved. (Councilors Arsenault & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the Licensing Board adjourn and the Council reconvene. (Councilors Arsenault & Nelson) (7 Ayes) (0 Nays)

Item #48-93 To consider action relative to a reapplication for a full time Malt, Spirituous, and Vinous License for the Jameson Tavern. (Public Hearing)

MOVED AND SECONDED: That the following reapplication for a full time Malt, Spirituous, and Vinous License be subject to Public Hearing: John L. Stiles, d/b/a The Jameson Tavern, 115 Main Street. (Councilors Ruff & Bennett) (7 Ayes) (0 Nays)

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

MOVED AND SECONDED: That the reapplication for a full time Malt, Spirituous and Vinous License, issued to the above named applicant, be approved. (Councilors Nelson & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #49-93 To consider action relative to a reapplication for a Full Time Malt License for Sam's Italian Foods. (Public Hearing)

MOVED AND SECONDED: That the following reapplication for a full time Malt License be subject to Public Hearing: Sam's Italian Foods, d/b/a Sam's Italian Sandwich Shoppe, 7 Main Street. (Councilors Veilleux & Ruff) (7 Ayes) (0 Nay)

MOVED AND SECONDED: That the reapplication for a full time malt License, issued to the above named applicant, be approved. (Councilors Veilleux & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #50-93 To consider action relative to a Community Development Block Grant Application. (Public Hearing)

MOVED AND SECONDED: That the proposed Community Block Grant Application for Wilbur's of Maine Chocolate Confections be subject to Public Hearing. (Councilors Bradley & Arsenault) (7 Ayes) (0 Nays)

Ann Maserall, from the Council of Governments, stated that the Wilburs are applying for Community Block Grant funding. She said the purpose of the development fund is to stimulate private investment which will result in new jobs, retention of jobs, or housing opportunities for low to moderate income individuals. The maximum amount of the loan is \$100,000 or 40% of their total loan package. The need for the development fund loan has to be proven that other private or public funding will not meet their needs. It is necessary that 51% of the jobs created or retained be low or moderate income. The interest rates and payment terms are set by the board fund to accommodate each individual business. The grant is made to the town and the town loans the money to the Wilburs. There is no liability to the town for the grant principal amount.

Mr. Bradley stated that the town will have no liability or loan administration responsibility.

Mr. Bennett asked how many people will be employed by the Wilburs. Ms. Maserall stated that the application states 6 retained positions and 7 new positions in Freeport.

Tom Wilbur stated that they plan a 20-seat restaurant which will be ice cream parlor and we may have some candy there and coffee on the first floor. The kitchen will be in the addition. On the second floor will be the family residence.

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

WHEREAS: The Town of Freeport wishes to apply to the Department of Economic and Community Development for a Small Cities Block Grant to carry out a community development program; and

WHEREAS: The planning process required by Maine Law and the CDBG program have been complied with, including participation in the planning process by low and moderate income families and individuals and the Town has conducted at least one duly advertised public hearing; and

WHEREAS: The Department of Economic and Community Development has established the Development Fund Program;

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FREEPORT that the Town Manager

1. is authorized and directed to submit an application for a Community Development Block Grant to the Department of Economic and community Development on behalf of Wilbur's of Maine Chocolate Confections substantially in the form presented to this Council;
2. is authorized to make such assurances on behalf of the Town of Freeport required as part of such application; and
3. is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing said program, consistent with (the Charter of the Town of Freeport and) the laws and regulations governing the planning and implementation of community development programs in the State of Maine.

(Councilors Bradley & Ruff) ROLL CALL VOTE (7 Ayes) (0 Nays)

Item #51-93 To consider action relative to proposed amendments to the Zoning Ordinance concerning private property peddler regulations. (Chapter 21) Public Hearing.

MOVED AND SECONDED: That the proposed Private Property Peddler Regulations be subject to Public Hearing. (Councilors Bennett & Nelson)
(7 Ayes) (0 Nays)

Mr. Goddard stated that this is the third Public Hearing on a revision of the Private Property Peddler Regulations. The only substantive change from the second Public Hearing is that this does limit the regulations to the high traffic or village commercial zones. As part of that discussion, it has been recommended that the Planning Board evaluate the Peddler Regulations in all other zones.

Jackie Cohen said that she would explain what the changes are to this document. She said the first asterisk, on the bottom of page one under peddler truck, the issue has been raised but not resolved as to whether or not the use of the public right-of-way should be regulated in this zoning ordinance. The second item, on page 2 Section 201A, is the section that describes what uses are permitted by right. Originally this had listed--*peddler on private property*--that has been removed and instead under Article 4, the specific zones where peddlers on private property are permitted, subject to regulation, are listed. In this version, all the zones along Route 1 have been included. Peddlers on private property are only permitted in the zones along Route 1, are not permitted in other zones, and are permitted and regulated in the zones along Route 1. Under Section 201A-- a new paragraph was added which states *these activities that are permitted by right (stated in the paragraph above) are not considered permanent uses of the property and don't acquire the status of a lawful nonconforming use.* She said that this means that if the Council, at some future date, wanted to make changes in the zoning ordinance, that the existing uses don't acquire a vested right to continue forever. She said on page 4 under Section 526A, the previous document said there was only one location that acquired the status of a legal nonconforming use and that was Bill Pushard's location. This version says there were two and the second location is Louie Corliss's location on Mallet Drive. She is investigating the location at Levinski's. She said another change is on page nine, B at the top, the word *permanently* was removed so it just says "each sign shall be secured to the cart." She stated under F the regulation on sign colors was removed. Under eleven the sentence concerning "dress" was removed and on page 10 and 11 there were minor changes to the enforcement section. The first paragraph on page 10 H was revised. She said that on page 11, 2B and 2 E were added and there were minor changes to 3 B & C that specified what amounts the fines were (previously they said up to \$50, up to \$100).

Mr. Bennett asked if the seafood truck at Maggie's was exempted. Ms. Cohen said that as a peddler truck it would be exempted. He also said that grandfathered status should be allowed.

Amy Adams stated her concern that too many laws are being made by the town planner and that the planner should do planning.

Ms. Ruff stated that the Council makes the laws. She stated that the Town Planner does what the Council asks her to do.

Mr. Bradley stated that the Council has spent a third of its time talking about this law. The Council has not been making a lot of laws--but has been working on this one law for three months. Jackie Cohen has been directed to draft changes that were recommended at the Public Hearings. Mr. Bradley said that he supports her efforts--he said he has not been correcting her but improving the language of this ordinance. He hopes that this will be the "Best" Peddler on Private Property regulation ever adopted in the State of Maine.

Ken Mann stated that two spots have acquired the legal status of nonconformance and the town planner is looking for a third one. He said that he feels the last sentence in Section 526A should be stricken from the paragraph so that it allows people, after the adoption of the ordinance, that have a legally nonconforming peddler location, to be allowed to present their case. He hoped that the amendment is made.

Peter Moulton asked that the requirement for an additional parking spot be taken out.

Councilor Bennett asked if this ordinance was only for private property peddlers on Route 1 Corridor and if it didn't pertain to any other part of town. Jackie Cohen said this ordinance is for private property peddlers within the zones along the Route 1 Corridor which are C1, C2, C3, I1, VC1, 2, & 3, and the MD and they are not permitted anywhere else in town. Mr. Bradley said it also exempts the specified uses. It has the effect of permitting them in all the other zones and the down town zones without regulation always on private property except for peddler trucks which because that additional thing on the public way permits them to go without regulation in public locations throughout town. Mr. Bradley asked whether we want to go into anything permitting any peddler activity, exempted or permitted and regulated, on public ways because of our representation to so many people throughout this process since we were only dealing with private property issues. This ordinance should let Bob Hartnett's Corn Man operate. Mr. Bradley recommended that we leave the ordinance as it is.

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

MOVED AND SECONDED: That the proposed regulations be tabled until April 6, 1993. (Councilors Bennett & Veilleux) (7 Ayes) (0 Nays)

Item #52-93 To Consider action relative to proposed amendments to the rules for Winslow Park. (Chapter 34) (Public Hearing)

MOVED AND SECONDED: That the proposed amendments to the Rules for Winslow Park be subject to Public Hearing. (Councilors Nelson & Arsenault) (7 Ayes) (0 Nays)

John Nelson said that there were three proposed amendments to the Rules for Winslow Park. The first one is Number 50. *No fishing allowed from the Harb Cottage Dock.* He explained that there was a lot of conflict about fishing on the dock, especially during the Blue Fish season--it was a safety issue. The second amendment is Number 51 *When applying for a reservation at Harb Cottage, the applicant must be the person who will occupy the cottage. Duplicate requests for the same party will not be considered. No sub-letting is allowed.* He said that the cottage is a high sought after rental and some people were trying to accommodate their family for more than one or two weeks. The third amendment has to do with fees--*There will be a \$.50 per person charge for groups of senior citizens and children under six (6) with 16 or more in attendance.* He said the reason for this change is because people were coming in buses and paying only for the load and then the people were impacting the staff, the use of the bathrooms, and clean-up these areas. The commission felt that \$.50 per person wasn't too much to ask for groups like that.

Mr. Bennett asked if the fee change would impact Freeport residents. Mr. Nelson said that it would only affect the large groups of people arriving by bus--mostly tourists. Mr. Bennett asked that the citizens of Freeport could be exempted from this rule.

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

MOVED AND SECONDED: That the proposed regulations be tabled until April 6, 1993. (Councilors Nelson & Bennett) (7 Ayes) (0 Nays)

Item #53-93 To consider action relative to an appointment to the Recreation Committee.

MOVED AND SECONDED: That Peter Moulton be appointed, effective immediately, to serve as a member of the Recreation Committee. **BE IT FURTHER ORDERED:** That Mr. Moulton qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Ruff & Arsenault) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #54-93 To consider action relative to an appointment to the Community Education Advisory Committee.

MOVED AND SECONDED: That Paul Brunelle be appointed, effective immediately, to serve as a member of the Community Education Advisory Committee until March 1, 1996. **BE IT FURTHER ORDERED:** That Mr. Brunelle qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Arsenault & Nelson) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #55-93 To consider action relative to an appointment to the Design Review Board.

MOVED AND SECONDED: That Sandy Williams be appointed, effective immediately, to serve as a member of the Design Review Board until October 1, 1995. **BE IT FURTHER ORDERED:** That Mr. Williams qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Bradley & Bennett) (7 Ayes) (0 Nays)

Mr. Victor Trodella, Chairman of the Design Review Board, asked the Council to consider rescinding these two nominations. He also asked that on the basis of the lack of qualifications of the candidates--neither candidate has any experience or education in building design--he asked for members to be appointed that have some design qualifications. He said there was an applicant with tremendous qualifications--Cynthia Orcutt who is a landscape architect by education and career, member of the Freeport Historical Society, member of an architectural firm in Portland, extensive civic background in Maine and New England. He said that if the Council appoints these two nominees, there will be seven men on the board. He feels that the Council is passing up a woman that could add a great deal to the board. He also felt that Sandy Williams should be disqualified on the basis of the separation of Church and State.

Mr. Nelson said that he has been involved in appointments on the Council on and off for a number of years. He has made a real effort to seek out women to serve on these boards. He feels that the two people selected for the Design Review Board are qualified in that they have a great deal of common sense, they care about their community, they have lived in the community for a good number of years and will add a great deal of balance to the design review process. The purpose of expanding the board was that it always was a five-person board and the Council expanded it to seven to broaden the view of design review. He feels that these two people will do that.

Mr. Olmstead said that the Council had advertised extensively for applicants for this board. The Council met the day before Cynthia's application was received to review the pool of applicants--Cynthia simply didn't apply in time.

Mr. Trodella questioned the urgency of these nominations and asked if they had to be decided tonight.

Mr. Bradley said that he agreed with Mr. Nelson. He asked if this was the attitude of the whole design review board or just Mr. Trodella's personally. He said the Council was looking to broaden the perspective of design review. He said that there were a lot of highly qualified, common sense, technically competent people there but there is also a need to have on that group people who work with a wider group or number of people within the community so that the purely technical approach to design review doesn't become the dominant impression the public receives from dealing with the committee. He said the Council has heard that is how the committee relates to the public. He said Sandy certainly deals with a wide group of public and Jim Hendry does too. He said that public exposure and that experience in dealing with the public would be absorbed within the skills of the committee and that it would be more user-friendly. He said that the Council had gotten comments that the committee was too narrow and technically focused and sometimes it doesn't take into account the public. He said that the second thing the Council has heard is that the best committees we have in town are those that are not made up of a single component of expertise but which represent a balance of people who have expertise, who have community experience, who have no experience but are just good clear thinkers--out of that mix comes the kind of decisions that this community most respects. Mr. Bradley said he finds it unusual for the committee chair to come in and oppose the nominations of two people who are likely to end up on his committee--that he must feel strongly about it.

Mr. Trodella said that he feels strongly enough about this issue to resign from the committee. He feels that without qualified design professionals on the committee, without people who are able to understand architectural drawings before them--sometimes without any information/recognizing that there isn't information on the drawing--without being able to recognize what that building is going to look like--that the visual future of the town is at stake. He said he feels very strongly about this--he said that that is the only reason he is involved in design review. He said that he has nothing to gain by serving on this committee but that he cares very deeply about what the town looks like. He said that when the Council appoints people who don't understand drawings of buildings, the Council is putting it in shaky hands.

Mr. Arsenault stated that he believes that every person that lives in the town of Freeport, that is a resident, is qualified to serve on any board. He said that an example is the Town Council--he said none of the Council persons had any qualifications to be a Councilor except that they wanted to be there. He said that both Mr. Williams and Mr. Hendry are qualified to serve on this board--every bit as qualified as the rest of the Design Review Board.

Mr. Nelson said that he hoped Mr. Trodella would not resign as he would provide the balance for the people like Mr. Williams and Mr. Hendry. He said Mr. Trodella will be the person who will be able to point out to them exactly what you are saying they won't be able to understand and they will make judgments based on your input.

Pat Pooters said that she supports the nomination of Mr. Williams to the Design Review Board. She said that he has the integrity to separate what he feels as a Christian as to what is good for this town.

Item #56-93 To consider action relative to an appointment to the Design Review Board.

MOVED AND SECONDED: That James Hendry be appointed, effective immediately, to serve as a member of the Design Review Board until October 1, 1994. **BE IT FURTHER ORDERED:** That Mr. Hendry qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Bradley & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #57-93 To consider action relative to a reapplication to the Coastal Waters Commission.

MOVED AND SECONDED: That Jeffrey Wescott be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1996 and that Mr. Wescott qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Nelson & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #58-93 To consider action relative to an appointment to the Coastal Waters Commission.

MOVED AND SECONDED: That Myrna Shepard be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1996. **BE IT FURTHER ORDERED:** That Ms. Shepard qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Bradley & Veilleux) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #59-93 To consider action relative to an appointment to the Coastal Waters Commission.

MOVED & SECONDED: That Stuart MacDonald be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1996. **BE IT FURTHER ORDERED:** That Mr. MacDonald qualify by swearing an oath of office before the Town Clerk by March 26, 1993. (Councilors Ruff & Nelson) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #60-93 To consider action relative to awards from the Dr. Gould Trust Fund.

MOVED AND SECONDED: That 12 applicants be awarded a total of \$2,141 from the Dr. Gould Trust Fund. Note: All applicants have qualified for awards through the General Assistance Office and a detailed list of awards can be reviewed at that office. (Councilors Veilleux & Ruff) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #61-93 To consider action relative to the adoption of a capital improvements plan for fiscal years 1994 to 1998.

MOVED AND SECONDED: That a Public Hearing be scheduled for April 6, 1993 at 7:30 p.m. in the Town Hall Council Chambers to discuss the proposed Capital Improvement Plan for Fiscal Years 1994 to 1998. **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 Arsenault & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Mr. Goddard stated that this is the official beginning of our budget season and this is phase one of the Capital Improvements Plan. Copies will be available for anyone to look at.

Mr. Bradley asked if all the 1993 items are the same as those listed last year as 1993 items. Mr. Olmstead said they were but there are some differences. Mr. Olmstead said that he would have someone state, at the Public Hearing, the difference and explain them.

Item #62-93 To consider action relative to a proposed septage agreement between the Town of Freeport and the Portland Water District.

MOVED AND SECONDED: That the proposed Septage Agreement between the Town of Freeport and the Portland Water District be approved. **BE IT FURTHER ORDERED:** That \$6,192.63 be transferred from the Fiscal Year 1993 Operating Budget Miscellaneous and Contingency Account to pay the outstanding bill from the Portland Water District. (Councilors Bennett & Nelson) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #63-93 To consider action relative to awards from the Davis Trust Fund.

MOVED AND SECONDED: That three applicants be awarded a total of \$557.27 from the Davis Trust Fund. **Note:** All applicants have qualified for awards through the General Assistance Office and a detailed list of awards can be reviewed at that office. (Councilors Arsenault & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #23-93 Tabled February 2 and February 25, 1993. To consider action relative to proposed amendments to the Zoning Ordinance concerning the American Disabilities Act and Handicapped Parking. (Chapter 21)

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

Chairman Goddard said there was significant discussion, after this item was tabled at the last meeting, at the Ordinance Committee meeting. This ordinance before the Council tonight is the result of the Ordinance Committee workshop.

Mr. Bradley said that the problem is that the Americans With Disabilities Act creates a legal requirement subjecting local businesses to substantial penalties for failure to comply to the provisions of the act. The additional problem is that, in some instances, those changes will

put those businesses out of conformance to the zone. What the planning board proposed was to take care of one of those problems which is parking. There are many other issues where ADA could require changes, other than parking, that could put someone out of conformance--examples are ramps, doorways, and other things. At the Ordinance Committee meeting we realized that we didn't have the information about ADA or about the Zoning Ordinance to permit us to revise the zoning ordinance in ways that would appropriately address those additional concerns. The Committee decided they needed to do more work on those issues. Ms. Cohen said she will work with the members on these issues. The parking issues were resolved with better language that would permit people who made either striping or signing changes in their lot, as a result of ADA which would make them nonconforming, technically, to make them legally nonconforming by giving them a certificate. This refers to paragraph e (2) which says: *If an existing facility decreases its existing parking spaces by a single space or up to 4% of its existing required total number of parking spaces by either restriping or resigning only, the modification shall not be subject to site plan review, and...the owner of the facility shall be issued a Certificate of Legal Nonconformance.* The standard of one parking space and 4% are straight out of the ADA. Those are the primary things people have got to do to make handicapped accessible parking available. He said (3) is something we need to make a minor adjustment to. He said that one of the concerns, expressed at the Ordinance Committee Meeting, was that nothing we do here subject an existing facility to site plan review in and of itself. Another thought discussed was that there might be other ways a business adjusts its facility to take into account its ADA parking requirements, that wouldn't be a restriping and wouldn't be resigning, which might be subject to site plan review. If they went to site plan review because site plan review required it and they got the approval, then clearly they also ought to get the certificate of nonconformance. He said this certificate is what permits them to get Bank refinancing, or to sell with a covenant that they aren't in violation of the zoning ordinances--all of which are now more and more important as you transfer property. He said what they tried to say in (3) is "If an existing facility decreases its existing parking spaces ...by modifications *other than* restriping and/or resigning, and those modifications *shall receive site plan approval if required* they shall upon application get a Certificate of Legal Nonconformance..."

Mr. Arsenault recommended that the language in paragraph e (1) be changed to read *the purpose of this section is to specify the conditions which will permit existing facilities, according to the requirements of this Ordinance, to achieve legal nonconformance with the...*

MOVED AND SECONDED TO AMEND THE MOTION: To amend e (1) by striking out the phrase in the third sentence--*which are subject to site plan review* and to amend e (3) to replace the language, in the fourth sentence, which is *in addition to or instead of* with the word *other than* and replace the language *that requires site plan review after receipt of site plan approval* with the language *that require and receive site plan approval.* (Councilors Bradley & Bennett) (7 Ayes) (0 Nays)

Ken Mann said regarding on A.5. Section 514, *Any establishment which caters to and/or offers its goods, facilities or services to the general public shall maintain at least one...of the accessible spaces for handicapped*--if it would be possible for the people in the down town that have less than 25 spaces referred to in ADA, if they would be able to group together to create a van space for the neighborhood such as in the historical society neighborhood so they all wouldn't be required to have a van space. He asked if the ordinance precluded that. Ms. Cohen said that as it now written you couldn't do that. He asked when the meeting would be held to discuss ramps, etc. for the ADA requirements. Jackie Cohen said that a Thursday evening meeting would be held. He thanked the Ordinance Committee for all the extra work they did on this issue.

Item #31-93 Tabled February 25, 1993. To consider action relative to proposed amendments to the Zoning Ordinance concerning Private Property Peddler Regulations. (Chapter 21)

MOVED AND SECONDED: That the proposed amendments to the Zoning Ordinance, as submitted to Public Hearing on February 25, 1993, be tabled indefinitely. (Councilors Bradley & Veilleux) ROLL CALL VOTE (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Alternative Travel Lane Committee and Charge Proposal.

Mr. Nelson said that at the workshop with the Planning Board, the Board brought several issues of interest. One item was the idea of alternative transportation that came up last year during the Capital Budget process. Mr. Nelson suggested that the Council identify people who were interested and in working on a committee that would be advisory to the Planning Board. This committee would look into such issues as specifications for alternative lanes on existing streets, look at routes around town, and those sort of issues. Mr. Nelson said that he has identified a number of people who are interested and he knows that there are others. A group of these interested people came up with a draft of a charge for this committee. He asked for input from the Council and then recommended that the Manager advertise for members of this advisory group.

Mr. Bradley said that he thought the group, that is working on the charge, be involved in the development of the charge. Ms. Ruff suggested that the committee use this "draft" as a starting point.

2. Coastal planning issues--Progress update/Access Points. Postponed discussion until the next Council meeting. It was a consensus of the Council for the Coastal Waters Commission to move forward with their issues.

3. Request from the July 4th Parade Committee.

Mr. Olmstead said that Ruth Fillmore of the Fourth of July Committee would like the Town to handle a 4th of July Fund for them--to receive donations. Mr. Veilleux said that this committee have spent a lot of time working on this project. It was a consensus of the Council to allow the Town to handle the funds for the Fourth of July Committee.

4. Request from the Memorial Day Parade Committee.

Mr. Olmstead said that the Memorial Day Committee has requested the use of the park for services and exercises. If anyone would like to help this committee, they could call either Phil Marston, Sherwood Snow, Phyllis Roy, Clayton Teague, Terry Carter, Joseph Field, or Scott Burditt--the number listed is 865-4491.

5. Discussion on Council meeting starting time.

Councilor Ruff asked if the meetings could start earlier. It was the consensus of the council to keep the starting time at 7:30. Mr. Arsenault suggested an earlier ending time.

OTHER BUSINESS

Amy Adams said that she received a letter stating when Tom Andrews would have mobile meetings around the area. His representative was supposed to be in the Council Chambers every third Tuesday but it is not advertised well and people don't know that it's happening. The Council suggested that she have a notice put on our Public Cable channel.

Mr. Nelson said that the Public Works Project has been divided into two phases. Phase One which is building the building and Phase Two which involves the property on West Street is phase two. The present Building Committee is very interested in being the nucleus of the committee that works on Phase Two. Mr. Nelson asked Mr. Olmstead to advertise for other people who are interested in working on Phase Two. Mr. Bennett suggested that the Council have more contact with the Building Committee. It was decided to have a join meeting.

Mr. Bradley said that he had received calls about the destruction of the Cushing Cape North of the Post Office. The concern is that it was on the Historical Register and the Historical Society was not notified. He asked the Town Manager to see if the proper notice was filed. He also asked that at the next Ordinance Committee meeting a review of the requirements for notification of the Historical Society be incorporated into the Design Review criteria.

Item #46-93 &

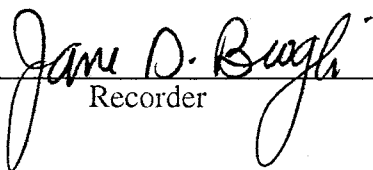
Item #64-93 To consider action relative to an Executive Session.

MOVED AND SECONDED: That the Town Council enter into Executive Session to discuss an application for the Elderly Tax Assistance Program and Union Contract negotiations and a personnel matter. (Councilors Nelson & Ruff) (7 Ayes) (0 Nays)

MOVED & SECONDED: To reconvene. (Councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

MOVED & SECONDED: To adjourn. at 11:05 (Councilors Veilleux & Ruff) (7 Ayes) (0 Nays)

The foregoing was recorded by: Jane D. Brogli


Recorder