

FREEPORT COUNCIL MEETING #14-93

JUNE 15, 1993 - 7:00 P.M. - COUNCIL CHAMBERS

SUMMARY AGENDA

ITEM #127-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION.

ITEM #128-93 TO CONSIDER ACTION RELATIVE TO APPLICATIONS/RE-APPLICATIONS FOR DIETETIC LICENSES FOR DENNIS DANIEL, MERLIN DOUGHTY, DOWNEAST PHARMACY, ROGER DUBAY, HOWARD GREENLAW, EDWARD HASSETT, PHILIP KERBER, DAVID LITTLEFIELD, ANNE ORDWAY, CHRISTOPHER WASHBURN, MARY-ESTHER HANNAN, RUTH KIMBALL, DANA & GLORIA PINKHAM AND GREGORY RINES. (PUBLIC HEARING)

ITEM #129-93 TO CONSIDER ACTION RELATIVE TO A RE-APPLICATION FOR A FULL-TIME MALT, SPIRITUOUS AND VINOUS LICENSE FOR FIDDLEHEAD FARM. (PUBLIC HEARING)

ITEM #130-93 TO CONSIDER ACTION RELATIVE TO AN APPROPRIATION ORDINANCE FOR \$4,500 TO PROVIDE FOR IMPROVEMENTS TO THE TOWN DOCK. (PUBLIC HEARING)

ITEM #131-93 TO CONSIDER ACTION RELATIVE TO AN APPROPRIATION ORDINANCE FOR \$4,500 TO PROVIDE FOR REPAIRS TO THE FIRE DEPARTMENT SQUAD TRUCK. (PUBLIC HEARING)

ITEM #132-93 TO CONSIDER ACTION RELATIVE TO AN APPROPRIATION ORDINANCE FOR \$37,000 TO PROVIDE FOR A LIGHTING EFFICIENCY PROGRAM AT FREEPORT HIGH SCHOOL. (PUBLIC HEARING)

ITEM #133-93 TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE TRAFFIC AND PARKING ORDINANCE RELATING TO RESIDENT STICKER PARKING AT THE HARBOR. (CHAPTER 48) (PUBLIC HEARING)

ITEM #134-93 TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE ZONING ORDINANCE CONCERNING HOME OCCUPATIONS. (CHAPTER 21) (PUBLIC HEARING)

ITEM #135-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE COASTAL WATERS COMMISSION.

PLEASE TURN OVER

- ITEM #136-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE ZONING BOARD OF APPEALS.
- ITEM #137-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE ZONING BOARD OF APPEALS.
- ITEM #138-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE SHELLFISH COMMISSION.
- ITEM #139-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE ASSESSMENT REVIEW BOARD.
- ITEM #140-93 TO CONSIDER ACTION RELATIVE TO A RE-APPOINTMENT TO THE ASSESSMENT REVIEW BOARD.
- ITEM #141-93 TO CONSIDER ACTION RELATIVE TO THE APPOINTMENT OF ALTERNATIVE MEMBERS TO THE MUNICIPAL FACILITIES BUILDING COMMITTEE.
- ITEM #142-93 TO CONSIDER ACTION RELATIVE TO AWARDS FROM THE DR. GOULD TRUST FUND.
- ITEM #143-93 TO CONSIDER ACTION RELATIVE TO APPOINTMENTS TO THE GREATER PORTLAND COUNCIL OF GOVERNMENTS GENERAL ASSEMBLY.
- ITEM #144-93 TO CONSIDER ACTION RELATIVE TO TAX ANTICIPATION BORROWING FOR FISCAL YEAR 1994.
- ITEM #145-93 TO CONSIDER ACTION RELATIVE TO THE APPOINTMENT OF A CABLE TV FRANCHISE AGREEMENT NEGOTIATING COMMITTEE.
- ITEM #146-93 TO CONSIDER ACTION RELATIVE TO THE SETTLEMENT OF A CLAIM.
- ITEM #107-93 TABLED JUNE 1, 1993. TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE SHELLFISH CONSERVATION ORDINANCE. (CHAPTER 32)
- ITEM #108-93 TABLED JUNE 1, 1993. TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE DESIGN REVIEW ORDINANCE. (CHAPTER 22)
- ITEM #109-93 TABLED JUNE 1, 1993. TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE ZONING ORDINANCE DEALING WITH PRIVATE PROPERTY PEDDLER PARKING REGULATIONS. (CHAPTER 21)

OTHER BUSINESS:

1. DISCUSSION ON THE COUNCIL SUMMER MEETING SCHEDULE.
2. DISCUSSION ON NOMINATIONS FOR MMA'S EXECUTIVE AND ADVISORY COMMITTEE.
3. DISCUSSION ON POSSIBLE LEGAL ACTION TO HAVE ZONING ORDINANCE VIOLATIONS CORRECTED - FORMER YARMOUTH LUMBER ROUTE 136, MAP 21, LOT 59.

ITEM #147-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION.

END OF AGENDA

Freeport Town Meeting # 14-93
Freeport Town Hall Council Chambers
June 15, 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, Harb Cottage	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 #13-93 held June 1, 1993 and accept the minutes as printed after noting that in Item 116-93 it should have been recorded that Councilor Ruff voted Nay on this item. (Councilors Ruff & Veilleux) (7 Ayes) (0 Nays)

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

No comments were made

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

Item #127-93 To consider action relative to an Executive Session with the Town Attorney to discuss litigation. (Town of Freeport v Ocean Farms.)

MOVED AND SECONDED: That the Council enter into Executive Session with the Town Attorney to discuss litigation (Town of Freeport v Ocean Farms.) (Councilors Veilleux & Ruff) (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the Council reconvene. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

Item #128-93

To consider action relative to applications/re-applications for victualer licenses for Dennis Daniel, Merlin Doughty, Downeast Pharmacy, Roger Dubay, Howard Greenlaw, Edward Hassett, Philip Kerber, David Littlefield, Anne Ordway, Christopher Washburn, Mary-Esther Hannan, Ruth Kimball, Dana & Gloria Pinkham and Gregory Rines. (Public Hearing)

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

Roll Call of Members:

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

MOVED AND SECONDED: That the following applications/re-applications for Victualer Licenses be subject to Public Hearing (Councilors Nelson & Veilleux) (7 Ayes) (0 Nays)

Dennis Daniel, d/b/a Ben & Jerry's (Peddler/Private Property) 57 Main Street.

Dennis Daniel d/b/a Dan's Hot Dogs (Peddler/Private Property) 83 Main Street.

Merlin Doughty, d/b/a The Country Store, 300 US Route One South.

Downeast Pharmacy of Freeport, Hot Dogs (Peddler/Private Property) 7 Middle Street.

Roger Dubay, d/b/a Country At Heart B & B, 37 Bow Street.

Howard Greenlaw, d/b/a Ed's Deli, 128 Main Street.

Edward Hassett, d/b/a 181 Main Street B & B, 181 Main St.

Philip Kerber, d/b/a White Cedar Inn, 178 Main Street.

David Littlefield, d/b/a Little Apple Ice Cream (Peddler/Private Property) U.S. Route One South.

Anne Ordway, d/b/a Old Red Farm B & B, 47 Desert Road.

Christopher Washburn, d/b/a Fiddlehead Farm, 15 Independence Drive.

#128-93 Cont'd.

Mary-Esther Hannan, d/b/a Sweet Stuff (Peddler/Private Property) 200 Lower Main Street.

Ruth Kimball, d/b/a The Picnic Hamper (Delivery Service to Freeport only)

Dana & Gloria Pinkham, d/b/a The Eagle Motel, 291 U.S. Route One South

Gregory Rines, d/b/a Greg's Lunch (Peddler/Private Property) 15 Oak Street.

MOVED & SECONDED: To waive the second reading (Councilors Veilleux & Bradley (7 Ayes) (0 Nays)

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

MOVED & SECONDED: That the applications/re-application for Victualer-Licenses be approved. (Councilors Veilleux & Arsenault) (7 Ayes) (0 Nays)

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

Item #129-93

To consider action relative to a re-application for a full-time Malt, Spirituous and Vinous License for Fiddlehead Farm (Public Hearing)

MOVED AND SECONDED: That the following re-application for a full-time Malt, Spirituous and Vinous License be subject to Public Hearing. (Councilors Ruff & Arsenault) (7 Ayes) (0 Nays)

Christopher Washburn, d/b/a Fiddlehead Farm, 15 Independence Farm, Freeport.

MOVED AND SECONDED: That the public hearing be closed. (Councilors Ruff & Arsenault) (7 Ayes) (0 Nays)

BE IT ORDERED: That the re-application for a full-time Malt, Spirituous and Vinous License issued to the above named applicant, be approved. (Councilors Ruff & Veilleux) ROLL CALL VOTE: (7 Ayes) (0 Nays)

Item #130-93

To consider action relative to an appropriation ordinance for \$4,500 to provide for improvements to the Town Dock.

#130-93 Cont'd.

MOVED AND SECONDED: That the proposed appropriation ordinance be subject to Public Hearing (Councilors Veilleux & Ruff) (7 Ayes) (0 Nays)

Councilors Bennett and Bradley feel that this should be put off. They would prefer to wait and hear from the Coastal Waters Commission. Councilor Nelson indicated he would like to hear from the public.

Peter Bogle pointed out that there was a year when citizens got together and worked on the Town Float and he and others are willing to help out again if the Harbor Master needs assistance.

John Arsenault of the Coastal Waters Commission advised that he would prefer to see at least \$2,500 left in an emergency fund in case a float needs to be replaced. He checked on the amount spent in the last five years and feels that the money should be left in the float maintenance program which will help pay for pilings. If it is taken out, there won't be any money available to work with. Chairman Goddard pointed out how much money has been appropriated for float maintenance but Mr. Arsenault explained how the bills arrived and where the money actually went. He feels that the Harbor Master was under the impression that if he didn't come up with a specific way the money would be spent, he wasn't going to get the money. Councilor Bradley feels that the breakdown is more for capital items than repair and now the Operating Budget has been adopted without the operating money that Mr. Arsenault would like to see in it. He asked Mr. Olmstead if it was too late now that the budget has been adopted. Mr. Olmstead advised that the budget can be amended up to the time of commitment which is in September. Councilor Bradley advised that Mr. Arsenault could request more money in the maintenance budget on a future agenda. Chairman Goddard indicated that he would really like to see where the money goes. He would prefer that they not come back and ask for more operating money but request additional funds when needed during the budget year since the Council has been very supportive in their past requests.

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

MOVED AND SECONDED: That the proposed appropriation ordinance be tabled until June 29, 1993 (Councilors Veilleux & Nelson) (7 Ayes) (0 Nays)

Item #131-93

To consider action relative to an appropriation ordinance for \$4,500 to provide for repairs to the Fire Department Squad Truck. (Public Hearing.)

MOVED AND SECONDED: That the proposed appropriation ordinance be subject to Public Hearing (Councilors Bennett & Arsenault) (7 Ayes) (0 Nays)

#131-93 Cont'd.

Duncan Daley explained that the Squad Truck carries specialized equipment and extra personnel to automobile accidents. It needs basic body work but he would not recommend replacing the hood or removing the lighting. He feels that this can be done in-house. He feels that the amount could be reduced by \$500. He will meet with Mr. Olmstead and determine the amount needed. He is hoping to get six years out of this vehicle.

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

MOVED AND SECONDED: That the proposed appropriation ordinance be tabled until June 29, 1993. (Councilors Bennett & Arsenault) (7 Ayes) (0 Nays)

Item #132-93

To consider action relative to an appropriation ordinance for \$37,000 to provide for a lighting efficiency program at Freeport High School (Public Hearing)

MOVED AND SECONDED: That the proposed appropriation ordinance be subject to Public Hearing. (Councilors Bradley & Ruff) (7 Ayes) (0 Nays)

Councilor Arsenault asked Superintendent Lyman if he found out if a bond could be obtained from the company because if something happens in a few years to this company, there will be no way to guarantee that they will be in business during the life of the pay-out. Superintendent Lyman advised that a bond was not required when it went out to bid. If a bond is required at this time, the project will have to be re-bid and an increase in the fee would be somewhere near twelve hundred dollars. Mr. Lyman advised that the company has never had to pay off for not exceeding the savings projected amount. Councilor Arsenault feels the Council should look very strongly into requiring a bond.

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

MOVED AND SECONDED: That the proposed appropriation ordinance be tabled until June 29, 1993. (Councilors Bradley & Arsenault) (7 Ayes) (0 Nays)

Councilor Ruff asked if the Council could vote on this issue tonight. Chairman Goddard indicated that a vote could be taken tonight since it represents substantial savings.

132-93 Cont'd.

MOVED AND SECONDED: That the Council vote to approve the Appropriation Ordinance for \$37,000 to provide for a lighting efficiency program at Freeport High School. (Councilors Bradley & Ruff) **ROLL CALL VOTE:** (6 Ayes) (1 Nay-Arsenault)

MOVED AND SECONDED TO AMEND: That the Council include the \$1,200 for a security bond. (Councilors Arsenault & Bennett) (2 Ayes-Bennett & Arsenault) (5 Nays) **MOTION FAILED**

Item #133-93

To consider action relative to a proposed amendment to the Traffic and Parking Ordinance relating to resident sticker parking at the harbor. (Chapter 48) (Public Hearing)

MOVED AND SECONDED: That the proposed amendment to the Traffic and Ordinance be subject to Public Hearing (Councilors Arsenault & Nelson) (7 Ayes) (0 Nays)

Peter Bogle mentioned that the Coastal Planning Commission recommended adopting this amendment. He feels that the only people who will be applying for these stickers are people with dinghies tied to the Town Wharf. John Arsenault of the Coastal Waters Commission also strongly recommends supporting this amendment.

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

MOVED AND SECONDED: That the proposed amendment to the Traffic and Parking Ordinance be tabled until June 29, 1993. (Councilors Arsenault & Ruff) (7 Ayes) (0 Nays)

Item #134-93

To consider action relative to a proposed amendment to the Zoning Ordinance concerning Home Occupations. (Chapter 21) (Public Hearing)

MOVED AND SECONDED: That the proposed amendment to the Zoning Ordinance concerning Home Occupations be subject to Public Hearing. (Councilors Nelson & Veilleux) (7 Ayes) (0 Nays)

Rod Regier of South Street explained why he has proposed changing the Ordinance in order to allow him to expand his wood working shop to construct musical instruments. Presently he is only allowed to use one quarter of his barn for his trade and he feels this is wrong. The Planning Board voted 4-2 in favor of changing the ordinance. He feels that the benefit will outweigh the disadvantages.

#134-93 Cont'd.

Lola Lea, Planning Board Member explained that she voted against this proposal because it deprives the Zoning Ordinance of much of its meaning. The Zoning Ordinance was primarily adopted for the purpose of separating commercial property from residential property. If the proposal is adopted, every residential district can potentially become a commercial district. Site Plan review is limited in nature and scope. She urged the Council to vote the amendment down.

Louis Marstaller urged the Council to adopt the amendment. He feels there are not many lots in town that will fit into this category. He feels that the restrictions will insure that this will not become a problem. If someone can keep their open space because they can use a little of it for a home occupation, he is all for it.

Councilor Arsenault indicated that he participated in the Comprehensive Plan Review Committee with Rod Regier and they tried to find ways to have incentives for small businesses to located in certain zones in Freeport but it was not a viable alternative. The cost of land in Freeport is too expensive. He feels a person cannot make money on land anymore unless it is subdivided and sold off. There is a lot of pressure on open land. He read a list of uses that are permitted in neighborhoods and pointed out that some of them would not be very pleasant. He feels that home occupations would be an economical way of maintaining old buildings. He is totally in support of this proposal.

Councilor Nelson pointed out that there are two concerns: maintaining structures and open space. He feels that when allowing a home occupation to expand by building a structure with open space to support the structure, the land should remain open space forever even if the commercial venture ceases.

Councilor Bradley advised that if this was a proposal solely to allow Mr. Regier to expand his harpsichord business, he would gladly vote to allow it. The only way he could vote to allow this proposal is if there are greater restrictions added. He will be glad to participate in more discussions but he will not support it as it is presented.

Councilor Ruff advised that she will support it. She would prefer to have a home occupation on a large piece of land knowing it has to go through site review rather than having the parcel broken up into a housing development. She owns an old barn and is concerned with the preservation of old buildings. She would not want anything to prohibit her from participating in a small home occupation in order to keep it. She also feels there is no way to predict what will happen in the future.

#134-93 Cont'd.

Chairman Goddard feels that John's points on open land should be investigated further. He indicated that if it were simply to support Mr. Regier's needs, he would certainly be supportive. He does have concerns with the possibility of having three large buildings allowed on a piece of property particularly if the landowner decides to subdivide the property. He has no opposition to allowing people to expand into their existing structures for home occupations. He indicated that when people choose to live in residential neighborhoods and they never anticipate seeing a large manufacturing facility added to the neighborhood. He would prefer to see this issue explored further in workshops but he cannot support it as it stands currently.

Councilor Bennett pointed out that once these home occupations stop, if the amendment passes, the land can be subdivided. If the amendment doesn't pass, this can be done anyway. In a town that has zoning, he feels it is something that all people can live with and still use their land. He feels Mr. Regier has done an excellent job in his proposal and he is in full support of it.

Councilor Veilleux indicated that he is sitting on the fence. He is disappointed that there wasn't a large turnout to express their views. He urged residents to contact him and let him know how they feel. Councilor Nelson asked if the issue could be discussed at a workshop next Tuesday. Chairman Goddard advised that this could be discussed next week and urged Planning Board members to attend.

Ruby McDermott advised that her husband has a home occupation. She drives down the Desert Road and views the Industrial Park. She feels the Council should support the little business people in town. If her husband needs more space, she hopes he will be allowed to expand into their attic if necessary. She feels that restrictions should be in place but home occupations should be supported. She feels it is vital for the Council to support one man businesses.

Rick Hendee agrees that the Town should not be restricting one-man businesses but by not approving this amendment, there will be nothing restricted. There will be no changes made to Home Occupations. He feels that site plan review is not the "be all" and "end all" of control. The whole purpose of the Home Occupation Ordinance is to insure that the home occupation becomes incidental and secondary to the residential use.

Sally Saunders lives in South Freeport and is not in support of the proposed change in the Zoning Ordinance.

134-93 Cont'd.

Councilor Arsenault pointed out that his interpretation of zoning was for health, safety and welfare and not a social aligning of particular parties. He feels it will be difficult to control the neighbor's property and what they do inside their buildings.

Councilor Bradley doesn't expect to see 3,000 sq. ft. buildings committed to business use being built along his road as a matter of right. He feels this will lead to more commercial activities in residential areas. He will look forward to the workshop.

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

MOVED AND SECONDED: That the proposed amendment to the Zoning Ordinance concerning home occupations be tabled until June 29, 1993. (Councilors Veilleux & Nelson) (7 Ayes) (0 Nays)

Item #135-93

To consider action relative to an appointment to the Coastal Waters Commission.

BE IT ORDERED: that P. Richard Doucette be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1996.

BE IT FURTHER ORDERED: That Mr. Doucette qualify by swearing an oath of office before the Town Clerk by June 30, 1993. (Councilors Bennett & Ruff) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

Item #136-93 & #137-93

To consider action relative to appointments to the Zoning Board of Appeals.

MOVED AND SECONDED: To table these items until June 29, 1993. (Councilors Veilleux & Ruff) **ROLL CALL VOTE** (6 Ayes) (1 Nay-Bennett)

Item #138-93

To consider action relative to an re-appointment to the Shellfish Commission.

BE IT ORDERED: that James McCormack be re-appointed, effective immediately to serve on the Shellfish Commission until July 1, 1996.

#138-93 Cont'd. **BE IT FURTHER ORDERED:** That Mr. McCormack qualify by swearing an oath of office before the Town Clerk by June 30, 1993. (Councilors Ruff & Veilleux) **ROLL CALL VOTE (7 Ayes) (0 Nays)**

Item #139-93 To consider action relative to an appointment to the Assessment Review Board.

BE IT ORDERED: that Frank Parker be re-appointed, effective immediately, to serve on the Assessment Review Board until August 1, 1996.

BE IT FURTHER ORDERED: That Mr. Parker qualify by swearing an oath of office before the Town Clerk by June 30, 1993. (Councilors Nelson & Veilleux) **ROLL CALL VOTE (7 Ayes) (0 Nays)**

Item #140-93 To consider action relative to re-appointment to the Assessment Review Board.

BE IT ORDERED: that Frank Doherty be re-appointed, effective immediately, to serve on the Assessment Review Board until August 1, 1996.

BE IT FURTHER ORDERED: That Mr. Doherty qualify by swearing an oath of office before the Town Clerk by June 30, 1993. (Councilors Arsenault & Ruff) **ROLL CALL VOTE (7 Ayes) (0 Nays)**

Item #141-93 To consider action relative to the appointment of alternative members to the Municipal Facilities Building Committee.

BE IT ORDERED: that Kirk Goddard be appointed as first alternate and Randall Bennett be appointed as second alternate to the Municipal Facilities Building Committee.

BE IT FURTHER ORDERED: That Mr. Goddard and Mr. Bennett be authorized to cast votes in the absence of regular members of the committee. (Councilors Arsenault & Veilleux) **ROLL CALL VOTE (7 Ayes) (0 Nays)**

Item #142-93 To consider action relative to awards from the Dr. Gould Trust Fund.

BE IT ORDERED: That 18 individuals be awarded a total of \$3,318.60 from the Dr. Gould Trust Fund.

NOTE: All individuals have qualified for awards through the General Assistance Office. A detailed list of awards can be obtained from that office. (Councilors Veilleux & Ruff) **ROLL CALL VOTE (7 Ayes) (0 Nays)**

Item #143-93

To consider action relative to appointments to the Greater Portland Council of Governments General Assembly.

BE IT ORDERED: That Betsy Ruff and David Thompson be appointed to represent the Town of Freeport as representatives to the Greater Portland Council of Governments General Assembly.

NOTE: The assembly will be held on Thursday, June 24 from 4:00 to 9:00 p.m. Last year's representatives were Edward Campbell and David Thompson. (Councilors Veilleux & Arsenault) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #144-93

To consider action relative to tax anticipation borrowing for fiscal year 1994.

MOTION: That the Town Manager read bids for tax anticipation borrowing.

BE IT ORDERED: That under and pursuant to Title 30-A, Section 5771 of the Maine Revised Statutes, as amended and supplemented, there be and hereby is authorized the issuance of \$1,000,000 principal amount of Tax Anticipation Notes of the Town in anticipation of the receipt of taxes for the municipal year which commences July 1, 1993 and ends June 30, 1994. (Councilors Bradley & Arsenault)

Mr. Olmstead read the bids:

People's Heritage Bank with an interest rate of 3.29%
Key Bank with an interest rate of 2.9%
Casco Northern with an interest rate of 2.87%
Fleet Bank with an interest rate of 2.8%

BE IT ORDERED: Said Notes shall be dated July 1, 1993, shall mature on June 30, 1994, shall be signed by the Treasurer and countersigned by the Chairman of the Town Council, shall bear interest at the rate of 2.8% per annum, shall be payable at Fleet Bank and signers may determine.

MOVED & SECONDED to add "at a time" before the word signers to this paragraph. (Councilors Veilleux & Ruff) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That said Notes are hereby sold and awarded to said bank.

BE IT FURTHER ORDERED: Said Notes are hereby designated Qualified tax exempt obligations of the Town of Freeport for the 1993 calendar year pursuant to the Internal Revenue Code of 1986.

#144-93 Cont'd.

BE IT FURTHER ORDERED: That all things heretofore done and all actions heretofore taken by the Town, its municipal officers and agents in the authorization of said Notes are hereby ratified, approved and confirmed and the Treasurer and Chairman are each hereby authorized to take any and all action necessary or convenient to carry out the provision of this voting, including delivering said Notes against payment therefore. (Councilors Bradley & Veilleux) (7 Ayes) (0 Nays)

MOVED AND SECONDED: to waive the second reading. (Councilors Veilleux & Bennett) (7 Ayes) (0 Nays)

Item #145-93

To consider action relative to the appointment of a cable TV franchise agreement negotiating committee

BE IT ORDERED: That the following individuals be appointed to represent the Town of Freeport in the upcoming Cable TV Franchise Negotiations.

Edward Bradley
Elizabeth Ruff
John Arsenault

Richard Simard
Kendall White

(Councilors Bennett & Arsenault) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #146-93

To consider action relative to the settlement of a claim.

BE IT ORDERED: That the Town Manager be authorized to expend up to \$225 to resolve a claim regarding Freeport Tax Map 20, Lot 87. (Councilors Ruff & Veilleux) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #107-93

Tabled June 1, 1993. To consider action relative to a proposed amendment to the Shellfish Conservation Ordinance (Chapter 32)

BE IT ORDERED: That the proposed amendment to the Shellfish Conservation Ordinance, as submitted to Public Hearing on June 1, 1993 be approved. (Councilors Arsenault & Veilleux) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #108-93 Tabled June 1, 1993. To consider action relative 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 June 1, 1993, be approved. (Councilors Nelson & Ruff) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

Item #109-93 Tabled June 1, 1993. To consider action relative to a proposed amendment to the Zoning Ordinance dealing with Private Property Peddler Parking Regulations. (Chapter 21)

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance dealing with Private Property Peddler Parking Regulations, as submitted to Public Hearing on June 1, 1993, be approved. (Councilors Veilleux & Nelson) **ROLL CALL VOTE:** (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Discussion on the Council Summer Meeting Schedule:

Chairman Goddard indicated that the schedule has been included in everyone's packets but there will be a workshop on June 29 with the County Commissioners and the Yarmouth Council. Mr. Olmstead asked the Council to meet at 6:30 in order to allow the Council to clean up some items before the summer schedule.

2. Discussion on nominations for the MMA's Executive and Advisory Committee.

Mr. Olmstead explained that these two committees are critical in establishing state municipal policy and asked if anyone was interested in being nominated. Chairman Goddard asked everyone to give this some thought and contact Mr. Olmstead if they are interested.

Councilor Bradley advised that he was contacted by the MMA Legislative Policy Group asking him to alert Councilors to the fact that in the budget discussions going on in Augusta, revenue sharing is proposed to go back on the table. He has been asked to urge Councilors to call their representatives and ask that they not put this back on the table.

Councilor Ruff pointed out that the General Assistance Budget might be cut by the State and the Town will be called upon to use local funds to meet the needs in this community.

3. Discussion on possible legal action to have Zoning Ordinance Violations corrected. Former Yarmouth Lumber Route 136-Map 21, Lot 59. Mr. Olmstead added The Atlantic Seal Cruise Operation.

Mr. Olmstead pointed out that Atlantic Seal was advised that they could no longer operate off of the Town Dock facility. Their one year stay ended in 1992 and they were reminded of this on June 11, 1993. They have begun to use the dock facility which is a violation of the original ruling. They were delivered a letter last Thursday asking them to cease to desist but on Friday and Monday, they continued to use the dock. At this point, Mr. Olmstead asked the Council to authorize legal expenses to obtain an injunction to stop them from using the float facility.

The second issue is Yarmouth Lumber Company on Route 136 which is currently in violation of an order of the Codes Enforcement Officer. They have begun some of the work required by the order but have not completed the work which was supposed to have been completed by May. The owner met with some of the neighbors in the Town Hall today to try to reach some sort of compromise to avoid litigation of this issue. Mr. Olmstead was of the opinion that the compromises would be submitted in writing and would be shared with Councilors later. He asked some of the abutters to verify that this was the case.

Patrice Griffin explained that she was one of the abutters and has been involved for several years. She verified that they met today and some offers were made and will be put in writing. She views this as the first draft of a lengthy process of coming to agreement. Lorraine Myshrrall, another abutter added that some concessions were offered but not all the neighbors are in agreement. She advised that there is a box full of information regarding this issue.

Mr. Olmstead pointed out that it appears that some progress is being made but it is not clear whether there will be sufficient common ground found at this point for the Council to avoid getting involved with enforcement action. Mr. Olmstead's recommendation was to have the Council authorize legal action to bring Yarmouth Lumber in compliance as per the Code Enforcement Officer but not until attempts to negotiate a settlement have been exhausted.

Councilor Veilleux disagreed. He feels that the Council should go forward with it. Councilor Bradley pointed out that the Council needs to feel it is right. He doesn't understand whether the neighbors agree or not has anything to do with this issue. If the ordinance is being violated clearly, he feels that the law should be enforced. Chairman Goddard feels that this issue is confusing and he would like to have questions as to the Council's ability to enforce pieces of the ordinance. He feels that a subcommittee should be formed to study this issue further. The Council's consensus was that everyone should be involved and Mr. Reeder should be invited to explain his views. Chairman Goddard suggesting discussing this at next week's workshop since it is public business. Councilor Ruff assured the public that the Council will enforce any violations of zoning or orders to correct violations.

Chairman Goddard advised that the other issue to consider is Tom Ring's Atlantic Seal issue which has been on the Council's docket for three years in a row. There is an order by the Harbor Master supported by the Coastal Waters Commission to not allow Tom Ring use of the float. Two

years ago the Council agreed to give him one year which expired in December of 1991. Last year the Council decided to extend it but a letter was sent informing them that they would not be given any opportunity to use the dock further. There was a suit brought by Tom Ring that he agreed to drop against the town if the Council agreed to allow him to use the dock one more year. He indicated that he would find private space. Councilor Bradley advised that he was quite sure this was not done in writing. Now it is a year later and the Council is dealing with it again.

Councilor Nelson indicated that Mr. Ring approached him during a District meeting and advised that he couldn't find accommodation and is hoping in reconfiguring the town's wharf area that something can be done and he hopes the Council can allow him to continue operating. Mr. Ring has some ideas to bring forward when groups meet on the reconfiguring.

Chairman Goddard indicated that an appeal was made by Mr. Ring to the Coastal Waters Commission which was denied unanimously. The Council has overruled their position twice. Chairman Goddard added that the Town has been approached by another party for commercial use of the floats and the request was denied. Ring's is not the only establishment that has asked to utilize the town float at this point.

Mr. Olmstead advised that Brewer's offered accommodation to Mr. Ring, but because of his concern for the depth of the water and the location they were discussing, he declined their offer. Since he didn't accept, Brewer's has gone and made other plans and now that offer is not available. Mr. Olmstead indicated that another person has since approached the town to use the town float and his application was denied. It is his opinion that this person will be back if Mr. Ring is allowed to continue to use the float.

Councilor Ruff has two concerns. One is that a letter was sent on September 3 notifying him. The second concern is that Mr. Ring should have gotten back to the Council asking for an extension of his use. She has a problem with Mr. Ring not coming back to the Council, or notifying them in writing of his intent. She feels he is blatantly saying that he will use the dock until the Council enforces action. Councilor Veilleux agrees with Councilor Ruff and feels that Mr. Ring should have made an attempt to work with the Council.

Councilor Bennett feels that the public facility, if properly regulated, should be used by everyone even though it is not a good place to run a business off of. He does not want to support any legal action.

Councilor Arsenault indicated that the Council should look before they leap into legal action. He is hesitant to do anything without looking into it further.

Councilor Bradley is not supporting the way Mr. Ring has behaved in ignoring a summons but is aware of what Mr. Ring has been trying to do. He feels that Mr. Ring should be given an opportunity to come to the Council and explain his actions.

Chairman Goddard feels that the ordinance has not been enforced in this instance. The Council has been well informed in this issue and this is a blatant violation. Mr. Ring has no right to use the dock particularly since other people have been denied use. He feels that every opportunity

has been given Mr. Ring to come to the Council and request changing the ordinance. He feels that the Council should be prepared to take action to support the cease order immediately following next Tuesday's workshop if appropriate. It was the consensus of the Council that the necessary preparations should be made. Mr. Olmstead will contact Mr. Ring and invite him to next week's workshop.

Item #147-93

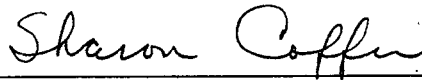
To consider action relative to an Executive Session.

MOVED AND SECONDED: That the Council enter into Executive Session to discuss Police Union Negotiations. (Councilors Veilleux & Bennett (7 Ayes) (0 Nays)

MOVED AND SECONDED: That the Council reconvene. (Councilors Veilleux & Arsenault (7 Ayes) (0 Nays)

MOVED & SECONDED: To adjourn. at 11:00 p.m. (Councilors Veilleux & Arsenault) (7 Ayes) (0 Nays)

The foregoing was recorded by: Sharon Coffin



Recorder