

FREEPORT TOWN COUNCIL MEETING #26-93

DECEMBER 21, 1993 - 7:30 P.M.

COUNCIL CHAMBERS

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A G E N D A

- ITEM #228-93 TO CONSIDER ACTION RELATIVE TO AN APPLICATION FOR AN AUTOMOBILE GRAVEYARD AND/OR JUNKYARD PERMIT FOR ALLEN RANGE ROAD USED AUTO PARTS. (PUBLIC HEARING)
- ITEM #229-93 TO CONSIDER ACTION RELATIVE TO AN APPLICATION FOR AN AUTOMOBILE GRAVEYARD AND/OR JUNKYARD PERMIT FOR FREEPORT AUTO PARTS. (PUBLIC HEARING)
- ITEM #230-93 TO CONSIDER ACTION RELATIVE TO AN AMENDMENT TO THE RULES OF ORDER AND PROCEDURE FOR THE FREEPORT TOWN COUNCIL
- ITEM #231-93 TO CONSIDER ACTION RELATIVE TO AWARDS FROM THE DR. GOULD TRUST FUND
- ITEM #232-93 TO CONSIDER ACTION RELATIVE TO AN AWARD FROM THE DAVIS TRUST FUND
- ITEM #233-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE PLANNING BOARD
- ITEM #234-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE BOARD OF APPEALS
- ITEM #235-93 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE LICENSING BOARD
- ITEM #236-93 TO CONSIDER ACTION RELATIVE TO THE ACCEPTANCE OF A BID FOR A USED POLICE VEHICLE
- ITEM #237-93 TO CONSIDER ACTION RELATIVE TO THE ACCEPTANCE OF A BID FOR A USED POLICE VEHICLE
- ITEM #222-93 TABLED DECEMBER 7, 1993 TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE GENERAL ASSISTANCE ORDINANCE. (CHAPTER 46)

OTHER BUSINESS

- ITEM #238-93 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION

**COUNCIL MEETING #26-93**  
**FREEPORT TOWN HALL COUNCIL CHAMBERS**  
**December 21, 1993 - 7:30 p.m.**

<u>Chairperson's Call to Order</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Elizabeth Ruff, Chairperson, Durham Road	X		
Randall Bennett, Vice-Chair, Park Street	X		
Edward Bradley, Flying Point Road	X		
Roger Wold, Staples Point Road	X		
Gloria DeGrandpre, Wolf Neck Road	X		
Kenneth Mann, Mann Road	X		
Edward Campbell, Gay Drive	X		

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of Meeting #25-93 held on December 7, 1993 and accept the minutes as printed.

**MOVED AND SECONDED:** To amend the Minutes of #25-93 on page 5, the fifth WHEREAS, to delete everything after "five years". (Councilors Wold and Mann) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** To waive the reading of the Minutes of Meeting #25-93 held on December 7, 1993 and accept the minutes as printed and amended. (Councilors Mann & Wold) (7 Ayes) (0 Nays)

**SECOND ORDER OF BUSINESS:** Public Comment Period - 30 minutes.

Louie Marstaller wished everyone a Merry Christmas.

Bruce Libby expressed concern that a group of people were allowed to break the chain of command and no punishment was given. He asked if the rules were going to be amended if a group doesn't want to live by them. He also expressed concern about the length of time it's taken to have a Grievance Committee selected.

Councilor Bradley asked for a status report. Councilor Mann asked when the Council would hear the Deborah Libby appeal.

Mr. Olmstead said that the first page of the Personnel Code for the Town of Freeport pertains to full time personnel only. Rescue matters fall under the Rescue Rules and Regulations and that is a whole separate process. He said the actual process that's going to be used to hear a potential grievance that has been filed or may be filed is the subject that is now being discussed by the legal counsels involved. Mr. Bradley asked if a grievance had been filed. Mr. Olmstead said a formal grievance had not been filed.

## Public Comment Continued

Peter Moulton said that he was appointed to the Recreation Committee and has attended only one meeting in the year he has been a member. He expressed concern about who the committee members are and who the officers are. He said that in the Code Book, the Recreation Committee should have eight appointed members (who have taken an oath) and keep minutes of the meetings. He said he can't find any record of anyone who has been sworn in, besides himself, or copies of the minutes since 1980. He asked the Chairperson to look into it.

Mr. Bennett said that the Appointments Committee has discovered that no one has been sworn in and the Committee will deal with this issue on January 4th at 6:30.

John J. Forrest, Bow Street, asked for a full investigation by Mr. Bennett of the status of the Recreation Committee. He wished everyone a safe and happy holiday season in 1994 and a gentle and peaceful manner in solving our problems. He expressed concern about having a wetlands seminar while in the middle of the T. Y. Lin case. He said he would like to see the old Police station used as a drop-in center for teens.

**MOVED AND SECONDED:** To close the Public Comment period. (Councilors Campbell & Bradley) (7 Ayes)

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**ITEM #228-93** **MOVED AND SECONDED:** That the application for an Automobile Graveyard and/or Junkyard Permit for David Bolduc, d/b/a Allen Range Road Used Auto Parts, be subject to Public Hearing. (Councilors Bradley & Bennett) (7 Ayes)

**MOVED AND SECONDED:** That the Public Hearing be closed. (Councilors Wold & Campbell) (7 Ayes)

**BE IT ORDERED:** That the application for an Automobile Graveyard and/or Junkyard issued to David Bolduc, d/b/a Allen Range Road Used Auto Parts, be approved. (Councilors Bradley & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #229-93** **MOVED AND SECONDED:** That the application for an Automobile Graveyard and/or Junkyard Permit for John Ingerson, d/b/a Freeport Auto Parts, Allen Range Road, be subject to Public Hearing. (Councilors Campbell & Bennett) (7 Ayes) (0 Nays)

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



Item #229-93 Continued

**BE IT ORDERED:** That the application for an Automobile Graveyard and/or Junkyard Permit issued to John Ingerson, d/b/a Freeport Auto Parts, Allen Range Road, be approved. (Councilors Campbell & Wold) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #230-93** **MOVED AND SECONDED:** To amend the first paragraph of the amendment to the Rules of Order and Procedure to read: "Workshops shall be called, and their agendas established by the Council Chairperson or four or more members of the Council". To further amend by striking the words "the Council Chairperson or his or her designee shall preside". (Councilors Wold & Bradley) (6 Ayes) (1 Nay - Mann)

**MOVED AND SECONDED:** To amend the first sentence of the amendment to the Rules of Order and Procedure to read: "Part of certain Special Meetings or Regular Meetings may be designated as Workshops,..." (Councilors Mann & Bennett) (2 Ayes) (5 Nays - Bradley, Campbell, DeGrandpre, Wold & Ruff)

**MOVED AND SECONDED:** To call the question. (Councilors Bradley & Campbell) (5 Ayes) (2 Nays - Mann & Bennett)

**MOVED AND SECONDED:** To amend the first sentence of the amendment to the Rules of Order and Procedure to read: "Certain Special Meetings and portions of other Special or Regular Meetings may be designated as Workshops..." (Councilors Wold & Bradley) (5 Ayes) (2 Nays - Mann & Bennett)

**MOVED AND SECONDED:** To amend (d) of the amendment to the Rules of Order and Procedure to read: "Public comment regarding issues under discussion shall be allowed upon specific request of any Councilor or by initiative of the Presiding Officer". (Councilors Mann & Bennett) (2 Ayes) (5 Nays - Bradley, Wold, DeGrandpre, Campbell, & Ruff)

David Thompson said he felt that no vote should be taken except on procedural items and that would allow the "may" to stand.

Louie Marstaller said that he has spoken at workshops in the past when he had knowledge of the subject at hand. As a member of the public he felt that he shouldn't have to have four members of the council agree that he can speak. He felt that the amendment should be written so the public can speak.

**Item #230-93 Continued**

**MOVED AND SECONDED:** To move the question.  
(Councilors Campbell & Bradley) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** To amend (c) of the amendment to the Rules of Order and Procedure to read: "No votes shall be taken except on procedural items relevant to workshop items under discussion." (Councilors Bradley & Campbell) (6 Ayes) (1 Nay - Mann)

**MOVED AND SECONDED:** To table Item #230-93 till the next regular meeting. (Councilor Mann & Bennett) (3 Ayes) (4 Nays - Bradley, Wold, Campbell, & Ruff)

**BE IT ORDERED:** That the Rules of Order and Procedure for the Freeport Town Council be amended as follows:

Section 3 Add:

Certain Special Meetings and portions of other Special or Regular Meetings may be designated as Workshops, the purpose of which is to allow Council to discuss issues in depth or detail, to gather information; and to meet with invited individuals, entities, groups, or committees to discuss issues of mutual interest. Workshop shall be called, and their agendas established by the Council Chairperson or four or more members the Council.

Established Rules of Order and Procedure shall apply except:

- (a) Any information relevant to the Workshop may be presented at the Workshop.
- (b) There shall be no public comment period.
- (c) No votes shall be taken except on procedural items relevant to workshop items under discussion.
- (d) Public comment regarding issues under discussion may be allowed upon specific request of any Councilor or by initiative of the Presiding Officer.
- (e) Council Secretary shall be designated by the Presiding Officer.

Workshops are Special Meetings of the Council and all notice and other requirements of regular Council meetings shall be observed.

(Councilors Wold & Campbell) **ROLL CALL VOTE** (5 Ayes)  
(2 Nays - Mann & Bennett)

**ITEM #231-93** **BE IT ORDERED:** That 19 applicants receive awards totaling \$2,534.19 from the Dr. Gould Trust Fund to pay for medical expenses. **Note:** All applicants have qualified through the General Assistance Office. The Fund Balance is currently \$8,969.61. (Councilors DeGrandpre & Wold) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

The Council asked Mr. Olmstead and Mr. Wold to look into the investments of the Dr. Gould Trust Fund and report back.

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**ITEM #232-93** **BE IT ORDERED:** That one applicant receive an award of \$744.83 from the Davis Trust Fund to pay for medical expenses. **Note:** The applicant has qualified through the General Assistance Office. The Fund Balance is currently \$2,744. (Councilors Bennett & Wold) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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Chairman Ruff asked the Council to discuss Geoffrey Hole's December 17, 1993 letter concerning appointment of certain officials and boards by ballot and whether or not they should be secret. Mr. Hole's letter is attached.

**MOVED AND SECONDED:** To follow the procedure as outlined in the last paragraph of the December 17, 1993 letter from Town Attorney Geoffrey H. Hole. (Councilors Wold & Bradley) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** To amend the motion to have the individual's name and the councilor's name on the ballot. (Councilors Bennett & Mann) **ROLL CALL VOTE** (2 Ayes) (5 Nays - Bradley, Ruff, Campbell, Wold, & DeGrandpre)

**MOVED AND SECONDED:** To amend the motion that the ballot include the name of the person recommended by the Appointments' Committee or any other individual put into consideration by any councilor prior to the vote. (Councilors Bradley & Mann) **ROLL CALL VOTE** (6 Ayes) (1 Nay - Campbell)

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**ITEM #233-93** **To consider action relative to an appointment to the Planning Board.**

The Appointments Committee recommended John Arsenault for the position and Mr. Mann suggested Richard DeGrandpre. On the 1st Ballot, the vote was:

Betsy Ruff -	John Arsenault	Gloria DeGrandpre -	John Arsenault
Ed Bradley -	John Arsenault	Ed Campbell -	John Arsenault
Ken Mann -	John Arsenault	Randy Bennett -	John Arsenault
Roger Wold -	John Arsenault		

There was an election.

**Item #233-93 Continued**

**BE IT ORDERED:** That John Arsenault be appointed, effective immediately, to serve as a member of the Planning Board until May 1, 1994. **BE IT FURTHER ORDERED:** That Mr. Arsenault qualify by swearing an oath of office before the Town Clerk by December 31, 1993. (Councilors Mann & Campbell) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #234-93 To consider action relative to an appointment to the Board of Appeals.**

The Appointments' Committee recommended Tami Wayboer and Edna Rosengren was also nominated. The 1st Ballot vote was:

Betsy Ruff -	Tami Wayboer	Gloria DeGrandpre -	Tami Wayboer
Ed Bradley -	Tami Wayboer	Ed Campbell -	Tami Wayboer
Ken Mann -	Tami Wayboer	Randy Bennett -	Tami Wayboer
Roger Wold -	Tami Wayboer		

There was an election.

**BE IT ORDERED:** That Tami Wayboer be appointed, effective immediately, to serve as a member of the Board of Appeals until July 1, 1993. **BE IT FURTHER ORDERED:** That Ms. Wayboer qualify by swearing an oath of office before the Town Clerk by December 31, 1993. (Councilors Campbell & Wold) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #235-93 To consider action relative to an appointment to the Licensing Board.**

The Appointments' Committee recommended Jane Brogli so that the Board would be made up of nine members as required by the Charter. The 1st Ballot vote was:

Betsy Ruff -	Jane Brogli	Gloria DeGrandpre -	Jane Brogli
Ed Bradley -	Jane Brogli	Ed Campbell -	Jane Brogli
Ken Mann -	Jane Brogli	Randy Bennett -	Jane Brogli
Roger Wold -	Jane Brogli		

There was an election.

**BE IT ORDERED:** That Jane Brogli be appointed, effective immediately, to serve as a member of the Licensing Board. **BE IT FURTHER ORDERED:** That Jane Brogli qualify by swearing an oath of office before the Town Clerk by December 31, 1993. (Councilors Wold & Campbell) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #236-93** To consider action relative to the acceptance of a bid for a used Police vehicle.

**MOVED AND SECONDED:** That the Town Manager report on the bids received.(Councilors Bradley & Bennett)(7 Ayes)(0 Nays)

Mr. Olmstead reported on the bids received for the 1992 Ford Crown Victoria and the 1991 Chevrolet Caprice (attached).

**BE IT ORDERED:** That the bid of \$7,120 from Winners Motors for a Ford Crown Victoria Vin# 2FACP72W9NX218665, be accepted. (Councilors Bradley & Bennett) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #237-93** **BE IT ORDERED:** That the bid of \$4,229 from Crown Motors for a Chevrolet Caprice Vin #1G1bl53770mw251988, be accepted. (Councilors Campbell & Wold) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**ITEM #222-93** **Tabled December 7, 1993. To consider action relative to proposed amendments to the General Assistance Ordinance. (chapter 46)**

**BE IT ORDERED:** That the proposed amendments to the General Assistance Ordinance, as submitted to Public Hearing on December 7, 1993, be approved. (Councilors Bennett & Bradley) **ROLL CALL VOTE** (7 Ayes) (0 Nays)

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**OTHER BUSINESS:**

Mr. Olmstead said that Pownal is working on their boundaries between Freeport and Pownal and has requested financial support from Freeport. He said that the Municipal Committee is considering this and will bring a recommendation to the council.

Councilors Mann and Wold reported that the Cumberland County budget was passed with no tax increase. Mr. Bradley thanked Mr. Mann and Mr. Wold for attending the Cumberland County budget meetings.

Chairman Ruff said that Attorney Hole recommended ratification of the vote the council took on November 23 regarding the EDA Grant. She said she has asked Mr. Olmstead to put together language that is appropriate for us and bring forward to us on January 4th.

Councilor Mann said he asked that something be done about the hearing impaired so that they can hear the council meeting. Mr. Olmstead said the Cable Board will be bringing a recommendation on this issue to the Council.



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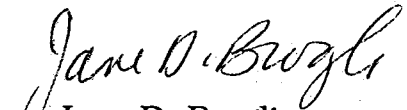
**ITEM #238-93** **MOVED AND SECONDED:** That the Council enter into Executive Session with the Town Attorney to discuss litigation. (Town of Freeport y T. Y. Lin) (Councilors Bradley & Bennett) (7 Ayes) (0 Nays)

**MOVED AND SECONDED:** That the Council reconvene. (Councilors Bennett & Campbell) (7 Ayes) (0 Nays)

The Council requested that Attorney Joe Hahn solicit a proposal from consultant Bud Brown to review the issue of Wetlands at the lower Mast Landing site.

**MOVED AND SECONDED:** To adjourn at 11:03. (Councilors Bradley & Wold) (7 Ayes) (0 Nays)

Respectfully submitted,

  
Jane D. Brogli  
Council Recorder

## BERNSTEIN, SHUR, SAWYER AND NELSON

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Geoffrey H. Hole

December 17, 1993

Elizabeth Ruff, Chairperson  
Freeport Town Council  
Town of Freeport  
30 Main Street  
Freeport, ME 04032

Dear Betsy:

You have asked me to explore a follow-up question to my letter of November 23, 1993, indicating that the Charter requires the appointment of certain officials and boards by ballot. The follow-up question involves whether or not the ballots can, or must be, secret?

Coincidentally, I received a note from MMA drawing my attention to an October 6, 1991, opinion of the Attorney General which indicates that in the Attorney General's view, a secret ballot vote by a public body is inconsistent with the provisions of the Freedom of Access law, Title 1, Sections 401 through 410. Because of the apparent strengthening of the home rule concept in recent legislation and a recent Maine Supreme Court case, it is not absolutely clear a town could not require secret ballot votes. There seems to be no Maine case directly on point, and the case cited by the Attorney General is a 1979 Michigan case, which hasn't drawn much attention.

The Charter does not use the words "...by secret ballot..." but only the words "...by ballot...". Maine statutes do not seem to define the word "ballot". In addition, I could not find a Maine case defining the word "ballot". The leading law dictionary defines "ballot" as a process or means of voting, usually in secret, by written tickets or slips of paper, or voting machine.

Section 401 of the Freedom of Access law states:

It is the intent of the Legislature that their actions be taken openly and that the records of their actions shall be open to public inspection and their deliberations be conducted openly...This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the Declaration of Legislative Intent.

BID OPENINGS FOR 1992 FORD CROWN VICTORIA AND 1991 CHEVROLET CAPRICE

BIDDING COMMENCED AT 3:00 P.M. IN THE TOWN HALL. JUDITH HAWLEY READ THE FOLLOWING BIDS:

1992 FORD

1. CROWN MOTORS INC, L.I., N.Y.  
\$6,769.00
2. CHAMBERS AUTO SALES, TRENTON, N.J.  
\$5,601.00
3. WINNERS MOTORS, L.I., N.Y.  
\$7,120.00
4. LIBERTY MOTORS, JERSEY CITY, N.J.  
\$5,193.99
5. A & SILVER INC, MATTAPAN, MA.  
\$5,446.00
6. D N K USED CARS, FARMINGDALE, ME.  
\$3,177.00
7. DUDLEY AUTO SALES, ROXBURY, MA.  
\$5,200.00
8. TWIN CITY TAXI, BIDDEFORD, ME.  
\$2,610.00
9. JACK WITHERS, BRUNSWICK, ME.  
\$900.00
10. MICHAEL GARLICK, FREEPORT, ME.  
\$2,500.00
11. TDF AUTO, FAIRFIELD CTR, ME.  
\$4,800.00
12. RICHARD MICHAUD, MADISON, ME.  
\$4,001.00
13. KAREN FREELES, BRUNSWICK, ME.  
\$201.00
14. JAMES MARSHALL, NEW GLOUCESTER, ME.  
\$3,200.00
15. ROBERT MERRITT, NO. WINDHAM, ME.  
\$3,653.00
16. RICK'S AUTO, FREEPORT, ME.  
\$3,520.00
17. CYNTHIA O'CLAIR, WATERTOWN, ME.  
\$2,100.00

1991 CHEVROLET

1. CROWN MOTORS INC  
\$4,229.00
2. CHAMBERS AUTO  
\$3,501.00
3. WINNERS MOTORS  
\$3,618.00
4. LIBERTY MOTORS  
\$2,889.99
5. A & SILVER  
\$3,527.00
6. D N K  
\$3,177.00
7. DUDLEY  
\$3,800.00
8. TWIN CITY TAXI  
\$1,110.00
9. JACK WITHERS  
\$500.00
10. MICHAEL GARLICK  
NO BID
11. TDF AUTO  
\$2,700.00
12. RICHARD MICHAUD  
NO BID
13. KAREN FREELES  
\$101.00
14. JAMES MARSHALL  
\$2,800.00
15. ROBERT MERRITT  
\$2,153.00
16. RICK'S  
\$1,502.00
17. CYNTHIA O'CLAIR  
\$1,100.00

BIDDING CEASED AT 3:26 P.M.

*Recorded by Mary D. Wese ATT Town Clerk*