

MINUTES
FREEPORT TOWN COUNCIL MEETING #19-22
TOWN COUNCIL CHAMBERS, 30 MAIN STREET, FREEPORT
TUESDAY, OCTOBER 4, 2022
6:00 PM

The Chair called the meeting to order at 6:05 pm

	PRESENT	ABSENT	EXCUSED
Councilor Chair Daniel Piltch, 25 Quarry Lane	X		
Council Vice Chair, John Egan, 38 Curtis Road	X		
Councilor Matthew Pillsbury, 36 Todd Brook Rd	X		
Councilor Chip Lawrence, 93 Hunter Road			X
Councilor Darrel Fournier, 3 Fournier Drive	X		
Councilor Jake Daniele, 264 Pownal Road	X via Zoom		
Councilor Edward Bradley, 242 Flying Point Road	X via Zoom		

FIRST ORDER OF BUSINESS: Pledge of Allegiance

Everyone stood for the pledge of allegiance.

SECOND ORDER OF BUSINESS: To waive the reading of the minutes of Meeting #17-22 held on September 20, 2022 and to accept the minutes as printed.

MOVED AND SECONDED: To waive the reading of the minutes of Meeting # 17-22 held on September 20, 2022 and #16-22 held on August 16, 2022 and to accept the minutes as printed.
VOTE: (Piltch & Egan)(4-Ayes)(0-Nay)(1- Excused-Lawrence)(1- Absent- Bradley)

THIRD ORDER OF BUSINESS: Announcements (15 minutes)

- Freeport Fire and Police department is hosting a open house on October 12, from 5 pm to 7pm

We will have various equipment and demonstrations used by our public safety and public works personnel ongoing during the evening. A variety of community groups will be on hand promoting fire safety. Some of our participants will be Cumberland County Emergency Management, Central Maine Power with Safety City, Learn Hands only CPR, have your blood pressure checked, see the police K9 in action. And many more displays. Enter a drawing for some door prizes and bring a nonperishable food item for the FCS food pantry to enter a separate drawing. We look forward to seeing you Wednesday night October 12.

- The Town is always accepting applications for people that want to be on Town Boards and Committees to fill vacancies that come up. Fill out a Board/Committee application and return it to the Clerk's office if interested.

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FOURTH ORDER OF BUSINESS: Information Exchange (15 minutes)

Councilor Egan: Got feedback from bicyclists about the intersection of Pleasant Hill Rd and Flying Pt Rd where there is a yield instead of a stop sign, which creates dangerous situations with cars yielding and passing bicyclist on the right. He is requesting that we get data from the Police Department or Public Works on accident rates there. That was referred to Traffic and Parking Committee. It is in their queue but they have not made any decisions or rulings.

After the successful housing workshop in September and from the large volume of emails, there seems to be a momentum for the Town Council to address the housing issue directly, so the Chair would like to suggest an idea of putting together a 12-15 month Ad-Hoc committee to look at data and to look at easy to find challenges we may have in our Zoning Ordinance. There may be items that Codes and Planning may be already able to identify. We have an offer from Freeport Housing Trust to put in 4-7 hours a month into that committee.

Councilor Fournier: Agrees we have to address housing issue, but do we currently have an infrastructure in place to assign to an existing committee, instead of creating a whole new one. Councilor Egan thinks staff is currently over tasked and didn't want to add to that. That would be fine if there was a committee who could take that on. Chair Piltch is hoping to have more knowledgeable people about the housing issues on the committee. Councilor Fournier supports using Freeport Housing Trust and that is what he was leaning towards. This will come back at the next meeting.

Councilor Egan gave an update on the successful Electrify Freeport event last weekend. He outlined all the displays available and congratulated Freeport Climate Action Now on the event.

Chair Piltch also gave an update on the Freeport Fall Festival. This was also a well-attended and successful event.

Councilor Bradley spoke about the sad events surrounding the passing of Theo Ferrara. He gave high accolades to the Police departments and other groups and officials searching for the missing child. Councilor Fournier also stated that searchers received no resistance from residents while conducting property searches.

FIFTH ORDER OF BUSINESS: Town Manager's Report (15 minutes)

The Town Manager also spoke about the events surrounding Theo Ferrara's search and passing. Everyone involved was given high compliments and accolades.

We received news this week that the Finance Department was awarded the FY23 Distinguished Budget Presentation Award for the 8th or 9th year in a row. High compliments to Jessica Maloy for her work on this document and award.

SIXTH ORDER OF BUSINESS: Public Comment Period – (30 Minutes)
(Non-Agenda Items Only)

There was no public comment

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

ITEM # 186-22 To consider action relative to adopting the October 4, 2022 Consent Agenda.

The Chair reviewed the items on the Consent Agenda for the Public.

BE IT ORDERED: That the October 4, 2022 Consent Agenda be adopted.

VOTE: (Pillsbury & Fournier)(6-Ayes)(0-Nays)(1-Excused-Lawrence)

(Council Chair Piltch) (5 minutes)

ITEM # 187-22 To consider action relative to approving proposed amendments to Chapter 46: General Assistance Ordinance and Appendices A- H for the period October 1, 2022 to September 30, 2023. PUBLIC HEARING

The Town Manager explained that we have to do this every year to adopt the State's set rates in order to stay in the eligible pool for general assistance reimbursement from the State. It used to be a 50/50 reimbursement, but now is 70/30 if we use the State criteria. If Council doesn't adopt the State's criteria the municipality would receive no reimbursement. These are the allowable maximums. The State is good at reimbursing and do an extensive annual audit.

Councilor Bradley: To what extent to do we coordinate with Freeport Community Services to make sure they are following the same guidelines we would be if we kept the responsibility? We have weekly interactions with them and are very comfortable that the new administrator is making applicants go through the proper qualification process. The Finance Department is comfortable with what they are seeing for invoices. He also asked if the town could apply stricter standards and still receive State reimbursement on the others. Sarah Lundin from FCS responded. Her understanding is the expectation is we offer this resource for all essential needs as designated by the State. She outlined the needs they assist with. We can be more generous by spending private funds. Being more stringent would put us in disapproval of the State and we would risk losing funding. She explained about special exceptions.

MOTION: To open the Public Hearing (Fournier & Pillsbury) **VOTE:**(6-Ayes)(0-Nays)(1-Excused-Lawrence)

MOTION: To close the Public Hearing (Fournier & Pillsbury) **VOTE:** (6-Ayes)(0-Nays)(1-Excused-Lawrence)

BE IT ORDERED: That amendments to Chapter 46: General Assistance Ordinance and Appendices A- H for the period October 1, 2022 to September 30, 2023 be approved. (Fournier & Pillsbury) **VOTE:**(6-Ayes)(0-Nays)(1-Excused-Lawrence)

(Town Manager, Peter Joseph)(5 minutes)

ITEM # 188-22 To consider action relative to setting a public hearing to discussed proposed amendments to Section 202. D. Non-Conforming Lots of Record of Chapter 21 – Town of Freeport Zoning Ordinance.

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Town Manager: A few years back the Council had conversations about Shoreland Zoning lots that were non-conforming lots dimensionally that were added onto and could not be divided. We went to the State and got special exceptions to some of those lots and they were taken out of dimensional standards. This does not apply to Shoreland Zoning but applies to everything outside the Shoreland Zone in town. The definition of a non-conforming lot of record is a lot that doesn't comply with zoning when zoning was instituted. Those lots are grandfathered and are considered non-conforming legal lots. That last forever as long as you don't change that dimension that is a violation under the new ordinance. The problem comes when someone doesn't have the correct dimensions (acreage, setbacks, etc) and they alter the dimensions of the lot in the positive direction. Legally, that involves a consent agreement with the Town Council. We can do that, but we can change our Zoning Ordinance to say if you change the dimensions of a lot of record and don't make the non-conformity worse, then you would be fine. For example, If someone has a half- acre in a 2 acre zone and they add another acre, as long as they don't create another violation they would be in compliance. You do not lose your non-conforming status. You don't meet the standards in zoning, but you've made the non-conformity less. It allows people who make their nonconformity better to utilize their lot and do something. If you lose your legally non-conforming status, you can't do anything until the violation is corrected. He gave other examples of situations where this would assist property owners or would harm them without passage.

The Planning Board has already had public hearings on this with limited public participation. The Planning Board was unanimous, but Councilor Egan would like more attention to this. The effort is to make it easier for people to improve their nonconformity so we should encourage and make it easier.

Councilor Fournier: asked for an example of what the process would be if this passes and he has a non-conforming lot that he adds an acre to and then wants to build on. How does this work? Assuming you dimensionally meet the standards for the zone, except for the thing you are grandfathered under, you still have to build with proper setbacks and that use is correct, etc. Whatever caused the non-conformity is ignored. The decision for is made locally at the Code office. These come up at building permit application review. Councilor Fournier wants to make sure the process is smooth and easy. These are solvable but would come to the Council for consent agreements which take time. We are saying we don't need to see them at the Council level.

Town Planner: The intent of the amendment is to remove something that has been identified as a barrier to certain residents. She also has a suggestion for a friendly amendment to the language we have before us here tonight: "Alteration of non-conforming lots: a non-conforming lot legally existing as of the effective date of this ordinance". That would be when it was first adopted in 1976. She is suggesting amending section D.1 to include "or an amendment of this ordinance". That means if someone's lot predates this Zoning Ordinance they could add land and still be considered non-conforming. If we are trying to be flexible, we should grant that same opportunity to someone's whose lot may have become non-conforming due to a Zoning amendment. She gave examples. We can amend the language after the public hearing so we can have it in writing for the next meeting. We have left out a small bracket of people that could become non-conforming as we amend the ordinance.

There was discussion surrounding what would happen if you add to the property and then try to take it back to non-conforming.

Scott Poulin: one of the individuals with a non-conforming lot who added a very small section to his lot to become more conforming and also wanted to move his garage. Upon building permit submission, now that he has added land and has become a non-conforming lot, he can't get a permit for the garage. The irony is that if he had done nothing, he could have gotten a permit to move his garage.

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BE IT ORDERED: That a public hearing be set for October 18, 2022 at the Town Council meeting that starts at 6:00 pm. to discuss proposed amendments to Section 202. D. Non-Conforming Lots of Record of Chapter 21 – Town of Freeport Zoning Ordinance. (Egan & Pillsbury) **VOTE:**(6-Ayes)(0-Nays)(1-Excused-Lawrence)

Note: The amendment would allow for the alteration of legally existing non-confirming lots of record provided that the alteration does not create any new non-conformity.

(Town Manager, Peter Joseph)(5 minutes)

ITEM # 189-22 To consider action relative to accepting a grant from T-mobile for use as construction funds at Town Hall.

Town Engineer Adam Bliss: He worked with Brett Richardson, Director FEDC, to apply for a Hometown Grant which is given out by T-mobile to municipalities for community projects such as our project at Town Hall. They give out \$25 million over 5 years across the United States. In 2022, there were 500 applicants. Two municipalities in Maine received awards, Ellsworth and Freeport. This makes the town hall beautification project feasible without asking a lot from the taxpayers. The project will start in the spring.

October 11, 2022 at 6 pm at FCS, we have a workshop to talk about the progress of the downtown vision. At the start we are going to thank T-mobile for the grant.

Councilor Egan asked if the public could see a 3-D rendering of the project and to have images on the TV for viewing. Adam will have a display board at the open house that will be a color rendering. We can post on website and in a few weeks, he goes before the Project Review Board which is open to the public.

Councilor Bradley asked about whether applying for and receiving grants applies to the prioritization process that we are going through. Should grant applications come before the council for approval. Is there a way prioritization for funding is a prioritization for doing. He keeps coming back to process.

The Town Hall beautification project had already been approved before we finished the Vision Plan. When the opportunity for this grant came up we were going for a project already approved. Is the town going to aggressively pursue grants for things on the list and then prioritize that way or wait till we have our priorities set and then go after grants?

Next Tuesday at the workshop we will be talking about which pieces of the large plan we think we can start working on today and which goals we want to adopt. We will be having that discussion as a Council with the public and with public input advising us. After that is done and we have the input, it's up to us to say that these are our priorities, or we should change to others. That will start to happen in October, but continue to happen till the end of the year when we set our council priorities for the following year.

Councilor Bradley: since grantsmanship is a big part of how we may pay for the projects we want, he would like to talk and set a policy about funding and how it fits into the prioritization process.

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Councilor Fournier: We used to encourage Department Heads to look for grants wherever they can. He doesn't want to see another hoop or burden that will slow the process down such as having to come to the Council.

The Town Manager discussed the shovel ready status of this plan.

BE IT ORDERED: That a grant in the amount of \$50,000 from T-Mobile for the purposes of Town Hall site plan beautification project be approved. (Pillsbury & Fournier) **VOTE:**(6-Ayes)(0-Nays)(1-Excused-Lawrence)

(Town Engineer, Adam Bliss)(5 minutes)

OTHER BUSINESS:

1. Discussion of Stretch Codes (Town Manager)(30 minutes)

MUBEC is a program established by the Legislature that applies to all towns in Maine. We enforce all of MUBEC as our standards and have for years. There are individual codes that make up MUBEC (the Residential Code, the Building Code, the existing Building Code, the mechanical code and the Energy Conservation Code.) They are all the 2015 standards that have been adopted by the State and we are required to follow in any regulation of building and permitting that we follow. They are updated every 3 years. There are 2018 and 2021 that exists. It's a lengthy process, there are committees involved at the State level. We are essentially 6-7 years back. The Stretch Code applies specifically to the Energy Conservation Code. The State allows municipalities to go beyond what's required. Energy codes usually increase over time. We want to increase energy efficiency of new construction. In Maine, that does not mean retrofitting old buildings, but it does mean there is usually a higher energy code standard (i.e. increasing "R" values, implementing new technologies or involve new standards to test air infiltration.) Buildings will be more energy efficient and should cost less to maintain. The current Stretch Code is the 2021. The 2021 Code should be adopted in early 2023 but this allows us to adopt the Energy Code ahead of when we would have to adopt it anyways. The benefits of 2021 Code will be to increase energy efficiency, decrease energy cost over lifetime of a structure and decrease environmental impact. If new codes are implemented there are some negatives if people don't understand how to do them. The Code officer has some concerns surrounding this. It could become unhealthy for homeowners if things are not constructed with proper ventilation, etc. It would drive up the cost of new constructions. There is a political component to this. Do you want a different standard than surrounding towns? The structure of the Energy Code remains the same, but this would incorporate the new standards.

Councilor Egan: The State hasn't adopted the 2021 Code and it's almost 2023 and it's hard to imagine how a 2021 Code is a real stretch. What we are doing here is adopting the latest building and energy code. It is the next Code that will be adopted. We are not talking about a far future Code. He thinks the pathway is to have this consideration for availability and put a date out in the future when this would be adopted by the town (months, not years) so that people can get used to it. We can have education and bring in resources. There are training modules about how to do the various assemblies. We could be proactive and hold trainings. We are keeping up with the State standard, not reaching that far. We should not rest on the inefficiency of the State adoption. The 2021 Code are small incremental elements of better understanding. Building science is a rapidly emerging technology sector and we know more about how to manage energy efficiency and indoor air quality. He suggests we spend more time articulating what these changes are, have a little time to digest then move forward with something in calendar 2023.

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Chair Piltch would like input from the new Housing Committee, if we can get one together quickly enough. He doesn't want to diminishing the speed with which we address our housing problem. If these Codes work in tandem with what we want to do in housing then all systems should be go.

Councilor Fournier: What is the cost per square foot to add this Code? He asked before and hasn't gotten an answer. It is important to have the most energy efficient needs here, but he has new home owners who are asking for help knowing there are energy savings coming later, but are worried about the current costs of meeting the new Code. He explained how older Codes have changed as we know more. He suggested using the approach of carrot and stick by explaining about more energy efficient ways of construction and detailing the benefits and then letting the consumer decide.

Councilor Piltch: Are there ways we can help with financing? Do we adopt these Codes for everyone all at once or do we show leniency for certain types of constructions?

Councilor Bradley: How does the Code's Office feel about this? Does he need training before we adopt this? He thinks it is a good idea but let's not put the Code Officer under more pressure.

Town Manager: The Code Officer has little concerns about his ability to do it. He did voice the concern that he would be failing more people. Councilor Egan pointed out that it would not be our job to train the industry. Councilor Fournier asked how many outside contractors do we have working in our community? The plus side of the State doing it is that they do the training. If we educate homebuilders a lot of people would want to comply when they know the benefits.

Lance Fletcher: Talked about how codes have changed over his career as an architect. Portland, South Portland and now Cumberland enforce the Stretch Code. He addressed the cons as outlined in the Manager's memo.

(Con)Increased initial cost: ***that cost will be less than 1% of the cost of the building. The 2021 Code was a leap in terms of savings and efficiency (10% which start the first year)

(Con)Decreased building quality and resident comfort if wrongly constructed: ***this is true for any building. He can research a contractor before hiring for quality.

(Con)Adjustment period: ***professional builders know how to get educated on things that are changing and building science.

Naomi Beal, Executive Director of Passive House Maine: The Maine Housing Authority has already adopted the Code across the State. Upfront costs are incremental. Building a high-performance building with beneficial electrification can meet electric incentives that are prioritized at Efficiency Maine. There are appliances that can be purchased for cheaper. Passive House Maine does have training right now for builders. We build a lot and all of them should be to the best efficiency possible. She doesn't think the State will adopt the 2021 Code before March 2023.

Robert Stevens: Spoke in favor of adoption of the Stretch Code. He doesn't see this interfering with any currently planned constructions.

-Lyra Engels-wrote a letter to the Council in support of the Stretch Code. It was submitted to the Council, but not read.

John O'brien: new resident to Maine. Spoke in favor of adoption of the Stretch Code. Suggested a knowledgeable handout to builders/owners when building permits are reviewed.

Karen Podkaminer: Energy codes address a market failure. Spoke in favor of adoption of the Stretch Code.

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Councilor Bradley asked about whether the Town would consider standing behind this financially. It is something that can be looked at.

Councilor Fournier suggested an incentive of a 1% property tax savings or credit for the new home builders that would sunset after a period of time.

2. Discussion regarding ARPA grant contribution to Freeport Community Services (Council Chair Piltch)(10 minutes)

There is approximately \$750,000 in remaining ARPA Funds. The Council talked about a grant to Freeport Community Services (FCS) with part of the funds. Due to the state of the economy, we are anticipating a large influx of heating assistance and General Assistance requests. We are seeing increases now. When we outsourced our General Assistance we anticipated 10 hours a month work time, but the GA Assistant is doing upwards of 60 hours a month. Does FCS need additional help? There is the increase in cases due to the placement of families in hotels on Route One South. The Manager explained what is and isn't covered and how the application process works for these families. He also talked out the housing crisis especially for immigrant families.

Chair Piltch: Downtown related projects, Infrastructure related projects and FCS were the three places they had decided to apply the ARPA monies to. We asked how FCS would spend this money and now it seems clear that there is a pressing need for more services. He is looking for consensus that this is still an appropriate thing to pursue. Then FCS can come back next meeting with more details.

Sarah Lundin FCS: spoke about the different types of heating assistance they provide and the types of fuels. Last year they had 80 applications for fuel assistance and they have current dollars for 40 families. She detailed how applications will be received this year and the other organizations that will be present to assist. FCS is usually the gap filler for fuel assistance. She explained how much fuel is provided. She also feels that GA is a good fit with FCS as they can also provide other services for those in need. FCS has been communicating with the town about their worries of upcoming needs. Pownal does receive assistance through FCS also so a \$50,000 donation could potentially assist someone in Pownal.

Councilor Pillsbury: supported 1/3 for each recipient of the ARPA money, but would like to see extra money come out of the Infrastructure third. The funds were intended for our most vulnerable residents.

Councilor Bradley: Would like to see the request quantified.

The current contract with FCS is \$12,000/year and the proposal is a 30-hour position in the \$36,000/year range. They were thinking the rest would be for heating assistance.

The Council does not want to look at FCS Capital Improvements at this time.

Robert Stevens: talked about weatherization rebates and how Freeport could administer a program like this by using FCS.

3. Discussion regarding ongoing planning for potential mountain bike trails at Hedgehog. (Council Chair Piltch)(15 minutes)

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Recap: last summer we started conversations with NEMBA about mountain bike trails at HedgeHog Mt. property. There is a Management Plan that was out of date. They wanted to study the flora of the mountain in the process of updating the Management Plan. They wanted to do this over 4 seasons. Last month several entities got together to discuss and the general consensus was that it's a great idea but we need to work out the details. The area of concern is the summit area. The whole project was to be privately funded. The cost has grown to \$500,000 and to put that money together they are looking for a commitment from the Council that this is something we want to do. We are dancing a little bit because we don't have the Management Plan. He is proposing a letter of support saying that yes we think it's generally a good idea and we would like them to come back with a plan that would allow some mountain bike trails to be constructed based on the offer before us.

Margaret Gerber: Representing the Conservation Commission. They are working at an annual estimate cost number for trail maintenance and infrastructure costs. There will be trail maintenance costs in the future that need to be explored and discussed. There will be a role for the Town to play.

Councilor Pillsbury asked about the ongoing costs and maintenance responsibilities and who would be responsible. He still has these concerns and would like to have these covered.

NEMBA does do some trail maintenance. Machine cut trails like these would require less trail maintenance. We should identify any ongoing costs that the town may have i.e. restrooms, parking, trash removal etc.

It was recommended to handle this through a trust fund and Councilor Fournier would support that.

Councilor Pillsbury asked about accessible trails. That would be on the Town to fund.

Councilor Bradley asked about tort liability. What is the town's exposure? The Manager believes it would be the same as streets, sidewalks. Dangerous situations need to be corrected without negligence. We don't have implied transactional standard as we are not selling tickets.

Chair Piltch outlined what he is proposing to outline in the letter:

1. That Council supports the project to build privately funded mountain bike trails at the town owned Hedge Hog Mt.
2. That it would be property would still be open to other uses
3. The environmental impact is still being studied. We expect the Conservation Commission to come up with recommendations and a new management plan that will include guidelines for mountain bike trails and plans for ongoing maintenance.
4. That we endorse the project once the final plans have been worked out.

Dan added two additional notes for the letter including pending legal review and sorting out funding for ongoing maintenance. No letter of support binds future Councils.

Mason Morfit spoke about endowing for stewardship for the future of the trails. If we don't endow the property the Town needs to know the ongoing expenses and accept as a council that responsibility.

Motion to adjourn at 8:57 pm. (Egan & Bradley)(6-Ayes)(1-Excused)

END OF AGENDA (Estimated time of adjournment 8:30 PM)