

**MINUTES  
COUNCIL MEETING #03-2003  
FREEPORT TOWN HALL COUNCIL CHAMBERS  
February 4, 2003—7:00 P.M.**

<b><u>CHAIRPERSON'S CALL TO ORDER</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>	<b><u>Excused</u></b>
Interim Chair, John Arsenault, Prout Road	x		
Interim Vice Chair, Rod Regier, South Street	x		
Charlotte Bishop, Maquoit Drive South Freeport Road	x		
Rich DeGrandpre, Timber Ridge Road	x		

Interim Chair Arsenault called the meeting to order at 7 p.m.

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of Meetings #1-2003 and #2-2003 held on January 7 and 8, 2003 and accept the Minutes as printed.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETINGS #1-2003 and 2-2003 HELD ON JANUARY 7 AND 8, 2003 AND ACCEPT THE MINUTES AS PRINTED. (Councilors Regier & Bishop) **VOTE:** (4 Ayes).

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

**MOVED AND SECONDED:** That the public comment period be opened on Non Agenda Items only. (Councilors Regier & Bishop) (4 Ayes).

Kenneth Mann explained why he and two other Councilors resigned at the last meeting. He read from a prepared document. Chair Arsenault ruled that issues eligible for Executive Session could not be addressed at this forum. Mr. Mann proceeded noting that his future comments would not cross the line. Mr. Mann presented information to Councilors and asked that it become part of the record. He thanked his family and members of the public for their past support.

Russell Baker informed the public and Council that he would be forming a petitioner's committee to amend the Town Charter to allow for the removal of the Town Manager by citizens' petition.

**MOVED AND SECONDED:** That the public comment period be closed. (Bishop & Regier) (4 Ayes).

Chair Arsenault announced that an election would be held on March 8 and Absentee Ballots will be available next Tuesday, February 11, 2003.

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

ITEM #14-2003 To consider action relative to adopting the February 4, 2003 Consent Agenda.

**BE IT ORDERED:** That the February 4, 2003 Consent Agenda be adopted. (Regier & Bishop)

Councilor Regier asked Mr. Olmstead if all the necessary fees have been paid and Mr. Olmstead noted that they have been.

**ROLL CALL VOTE:** (4 Ayes).

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ITEM #15-2003 To consider action relative to a proposed amendment to the Administrative Code concerning the disbursement of funds (Chapter 2). (Public Hearing)

**MOVED AND SECONDED:** That the Public Hearing be opened. (DeGrandpre & Regier) (4 Ayes).

Mr. Olmstead explained this amendment. There were no public comments.

**MOVED AND SECONDED:** That the Public Hearing be closed. (DeGrandpre & Regier) (4 Ayes).

**BE IT ORDERED:** That the proposed amendment to the Administrative Code be approved. (DeGrandpre & Regier) **ROLL CALL VOTE:** (4 Ayes).

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ITEM #16-2003 To consider action relative to amendments to the Shellfish Conservation Ordinance (Chapter 23). (Public Hearing)

**MOVED AND SECONDED:** That the Public Hearing be opened. (Bishop & Regier) (4 Ayes).

Garrett Simmons, Chair of the Shellfish Commission and Dan Brown, Freeport Shellfish Warden explained the proposed changes. They have been working on these amendments for a year. There were no public comments. Discussion followed.

**MOVED AND SECONDED:** That the Public Hearing be closed. (Regier & DeGrandpre) (4 Ayes).

**MOVED AND SECONDED:** to add the word "total" before commercial licenses and add "total" before recreation licenses under Section 6, E, (3) at the bottom of Page 7. The sentence will now read: From July 1<sup>st</sup> through September 28<sup>th</sup> annually, 10% of the total commercial licenses and 10% of the total recreation licenses shall be reserved for non-residents. (Regier & DeGrandpre) (4 Ayes).

**BE IT ORDERED:** That the proposed amendment to the Shellfish Conservation Ordinance be approved as amended. (Bishop & DeGrandpre) **ROLL CALL VOTE:** (4 Ayes).

**ITEM 17-2003** To consider action relative to a 2003 Browntail Moth Aerial Spray Program.

**BE IT ORDERED:** That the Town of Freeport sponsor a 2003 Browntail Moth Aerial Spray Program.

**BE IT FURTHER ORDERED:** That the municipal reimbursements be made to individual property owners in areas identified as potential spray blocks by the Maine Forest Service to those residents that choose to perform a ground spray at the 2002 rate. (Regier & Bishop)

Johanna Hanselman explained that a survey has been conducted and the entire Town is infested with Browntail Moth Caterpillars. The Maine Forest Service did not recommend spraying this year based on its limited potential for success.

Bill Allen, lobsterman from Harpswell, shared his views on using the pesticide, Dimilin. He cautioned that Freeport could be liable if any Dimilin gets into seawater. He is not opposed to spraying but is opposed to Dimilin. Patricia Verrier, Executive Director of the Maine Lobsterman's Association echoed much of what Mr. Allen said. She added that there are more than a thousand licensed lobstermen that fish in Casco Bay and the potential impacts from the spraying could affect their livelihood. Tom Wilbur raised questions that Johanna Hanselman addressed. George Stover shared the results of his research work and read a document he prepared. Elliott Thomas, Lobsterman, shared his experience with the spraying that took place in Yarmouth. Joe Migliaccio of South Freeport asked Councilors to carefully consider this issue and explore other options for handling the browntails. Jim Russell of Bow Street urged Councilors to explore more environmentally-friendly options. Robert Scammon, Lobsterman from Freeport noted that lobster production is down in shore. He is not sure what has happened to the bay. Tom Wilbur pointed out that he is against aerial spraying because of the harmful potential impact on lobsters. He is interested in the pilot study with tents done on Wolfe Neck last year. He'd like the Council to take a hard look at what else can be done. Ms. Hanselman offered to look into getting some of these tents if there is interest in them.

Councilor Regier noted that letters have been received from Jane Podkaminer, Robert & Jill Checkoway and Kirk Goddard in support of an aerial spray program for '03 and they are part of the public record.

Councilor Regier explained why he would like to see the plane grounded and abandon the rebate program. For property owners who hire a certified company to do ground spraying. Councilor Bishop concurred and pointed out that this program is not working and the Town does not have money available for reimbursement. She would prefer to see a public meeting scheduled at the Community Library and spray companies invited to come in and explain how they can combat the browntails. Education is the key. Ms. Hanselman urged property owners to look and see if they have webs on their property and call licensed applicators to schedule spraying. The applicators are listed on cable. Chair Arsenault agreed that it is not money well spent and money can be spent in better places.

**ROLL CALL VOTE:** (4 Nays).

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**OTHER BUSINESS:**

1. Taxes—Chair Arsenault pointed out that he has requested that the Town Manager place an item on the agenda for the February 25 meeting to discuss a possible tax increase. On the heel of a re-val, the Town cannot afford a 6% tax increase this year. The Council will consider allowing a tax increase to cover school debt and County taxes only, which would be approximately 3%.

Because Mr. Presgraves has to catch a ferry tonight, Chair Arsenault asked if #5 and #6 could be taken out of order. No one had any objections.

2. Discussion on status of MDOT Route 1 project between West Street and Varney Road—Al Presgraves displayed a plan and explained that his proposal has 3 lanes and a sidewalk on the westerly side. MDOT will have a final report perhaps as early as the end of this week. He answered questions for Councilors. The State is planning to award the project and this is the last chance for the Council to stop the project. Councilors concurred that they did not want to stop it.
3. Discussion on new Storm Water Phase II Requirements—Al Presgraves gave a Power Point presentation on this subject explaining the reasons behind it and how it affects the Town. He answered questions for Councilors. Discussion followed.
4. Report on Planning Board activities—Alan Caron, Chair, walked the Council through his report. He noted that the Board continues to be extremely busy. He pointed out that their largest project has been Shaw's and the 19<sup>th</sup> may be the date for the final review if all goes well. Another large project has been the Mill Stream Subdivision which is now in the final design stage. He is happy to report that 71% of the land will be permanently protected in open space. He mentioned the Eastland Shoe project and some of the smaller projects they have been reviewing. They have been working with the Village Planning Committee. He pointed out that in the Planning Board's Duties Section 2.10 there is a provision that requires that the Planning Board submit a report at every third formal Town Council meeting which has not been happening. He noted that it would make sense to revisit this issue and perhaps change the wording to say "at the request of the Town Council". Mr. Olmstead will handle this.
5. Report on Village Planning Committee activities—Cliff Goodall, Chair, noted that their committee has 32 members and they are charged to come up with a vision plan for the Village. They are planning on hosting an old fashioned day-long public meeting on April 12 and the public will be invited to come and share their ideas. He forewarned that they may need an extension to the June deadline. Discussion followed. Mr. Goodall indicated that they did not need anything from the Council tonight but urged Councilors to come to the April 12<sup>th</sup> meeting.

**STATEMENT**—Chair Arsenault pointed out that if the meeting exceeds 4 hours, a break will have to be taken to allow personnel an opportunity to change their C.D.

6. Presentation by the Cumberland County Soil and Water Conservation District on the Frost Gully Brook watershed. Jeff Edelstein, representing the district, discussed the latest stage in a long running project involving the Frost Gully Brook watershed. He introduced Mary Gilbertson, Project Manager. He displayed a plan showing detention basins and pipe layout. Most of the funding for construction comes from the DEP and ultimately the EPA but the Town will need to maintain them. They will be designed to handle 100 year floods. Mr. Menard, property owner, noted he is concerned with an increase of standing water and mosquitoes and who will monitor the detention basins. Councilor Regier asked Mr. Edelstein to provide a binding statement of what the maintenance expectations will be. Mr. Edelstein agreed but cautioned that he would have to give a best estimate on winter sand build-up.

Mr. Olmstead advised that the Planning Office and Town Engineer believes this is a great idea and the Town will be monitoring and maintaining this periodically in any event, once it is constructed. DEP will provide \$36,000. It's a 60/40 match. The local match would be about \$14,000 but Town staff time counts as does easements, etc. Mr. Olmstead pointed out that there will not be any money to put in next year's

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budget for this project. This may be an opportunity for the Town to bid the project. He noted that Mr. Edelstein will have to develop deed descriptions and easements and this item will have to come back for formal action. He suggested that Mr. Edelstein sit down with the Town Engineer and the Public Works Director to discuss their interest and outline a clear maintenance project. There was a consensus vote of conceptual support from Councilors. More discussion followed.

7. Discussion on Fogg Point Road relocation—Mr. Olmstead explained that this project has been through the Planning Board and the Planning Board has approved the relocation. The abutting neighbors have signed off and now it's the Council's turn to determine whether or not it will accept this newly built piece of road if it is built according to the Town's specifications and abandon the old piece of road once the new section is built. Matt Logan of Fogg Point Associates, asked for a motion to this effect upon satisfactory completion.

**MOVED AND SECONDED:** To take up an item not on the printed agenda. (Councilors Regier & Bishop) (4 Ayes).

**MOVED AND SECONDED:** That the Town Council express its intention to accept this new portion of Fogg Point Road subject to the road being built in accordance with the approved site plan and that construction be certified by the Town Engineer and that no public easement be retained on the discontinued portion of the road. (Councilors Regier & DeGrandpre) **ROLL CALL VOTE:** (4 Ayes).

8. Sign the warrant for the March 8, 2003 Special Election—Councilors signed the warrant.
9. Discussion on policy regarding use of legal services (requested by Councilor Regier).

**MOVED AND SECONDED:** To take up an item not on the printed agenda. (Councilors Regier & Bishop) (4 Ayes).

Councilor Regier explained that this is a formality. He read the Present Town of Freeport Policy on Use of Legal Account (established January 13, 1994): The Freeport Town Council will establish the appropriation for legal expenses on an annual basis. Once established, only the Town Council Chairman and the Town Manager can approve requests for the use of legal services.

**MOVED AND SECONDED:** To delete the present language and replace it with the following language: The Freeport Town Council will establish the appropriation for legal expenses on an annual basis. Once established, only the Town Council Chairperson or the Town Manager can directly utilize legal services or approve the utilization of legal services by others.

Any request for legal services approved by the Town Council Chairperson that qualifies for executive session under 30-A M.R.S.A. Section 405(6), as it may be amended from time to time, shall be reported in writing to all Councilors before the expenses for legal services are incurred. (Regier & Bishop) **ROLL CALL VOTE:** (4 Ayes).

Requests for contributions—Mr. Olmstead noted that a letter was received asking for a contribution from a Bath student asking for a donation to help with funds for a People to People Student Ambassador program. A letter was received from a group asking for a contribution to help keep casinos out of the State of Maine. Councilors concurred that these were worthy causes but they did not want to use public money for them.

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Adjournment:

**MOVED AND SECONDED:** To adjourn at 10:45 p.m. (Bishop & DeGrandpre)  
(4 Ayes).

Respectfully Submitted,

*Sharon Coffin*

Sharon Coffin  
Council Secretary

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*approved*  
~~PROPOSED~~

## AMENDMENT TO THE ADMINISTRATIVE CODE

### CHAPTER 2

#### SECTION 106 – DISBURSEMENT OF FUNDS

All Warrants for disbursements of money shall be signed by the Chairman of the Town Council, the Vice Chairman of the Town Council and the Treasurer. In the event that any one of the aforementioned three are unavailable due to unexpected situations which may include but not be limited to emergencies, sickness, vacation, etc.; checks may be issued upon securing two signatures. Further, no payment shall be made or obligation incurred against any allotment or appropriation unless the Town Manager or his designee certifies that there are, or will be, sufficient funds available to meet the payment or incurred obligation when it becomes due and payable.





Approved

**SHELLFISH CONSERVATION ORDINANCE  
TOWN OF FREEPORT  
CHAPTER 32**

1. **AUTHORITY:** This Ordinance is enacted in accordance with 12 M.R.S.A., Section 6671.
2. **PURPOSE:** To establish a Shellfish Conservation Program for the Town of Freeport which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:
  - A. Licensing;
  - B. Limiting the number of shellfish harvesters;
  - C. Restricting the time and area where digging is permitted;
  - D. Limiting the minimum size of clams taken;
  - E. Limiting the amount of clams taken daily by a harvester.
  - F. Enhancing the clam resources by the various recognized means; e.g. reseedling, etc.
3. **EFFECTIVE DATE, DURATION, AND AMENDMENT:**
  - A. Effective Date: This Ordinance which has been approved by the Commissioner of Marine Resources shall become effective after its adoption by the Municipality. A certified copy of the Ordinance is filed with the Commissioner within twenty (20) days of its adoption.
  - B. Duration: ~~This Ordinance shall remain in effect for three (3) years from its adoption. It shall be repealed by operation of law at that time. Should the Town desire to continue with a Municipal Conservation Program, the Ordinance must be replaced on or before the time of repeal by this or a similar ordinance.~~
  - B. Amendment: This Ordinance may be amended from time to time by the Town Council. Prior to adopting an amendment, the written approval of the amendment by the Commissioner of Marine Resources shall be filed with the Town Clerk. A certified copy of any amendment adopted by the Town Council shall be filed with the Commissioner of Marine Resources with twenty (20) days of its adoption.
4. **SHELLFISH CONSERVATION COMMISSION:** The Shellfish Conservation Program for the Town of Freeport will be administered by the Shellfish Conservation Commission consisting of seven (7) members to be appointed by the

Freeport Town Council for terms of three (3) years. The Commission's responsibilities include:

- A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued;
- B. Surveying the clam flats to maintain current information on shellfish resources;
- C. Submitting to the Freeport Town Council proposals for the expenditures of funds for the purpose of shellfish conservation;
- D. Keeping this Ordinance under review and making recommendations for its amendments;
- E. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources;
- F. Recommending conservation closures and openings with the Area Biologists of the Department of Marine Resources and recommending other long-term management goals;
- G. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other Commission activities;
- H. Identifying conservation projects which qualify an applicant for Renewal of a Commercial License. The Shellfish Program Coordinator shall record the names and hours worked by individuals on a conservation project and submit them to the Shellfish Conservation Commission.

**5. DEFINITIONS:**

- A. Resident: For the purpose of this Ordinance, the term "Resident" shall mean a person who owns or rents real estate within the Town of Freeport which is his or her permanent, fixed place of abode and principal place of residence. If a person claiming to be a resident neither owns nor rents real estate, they shall be required to produce such other evidence of municipal residency as may be required by the Town Clerk. A person shall not qualify as a resident of this Municipality unless he or she has maintained a permanent, fixed place of abode and principal place of residence within the Town of Freeport for twelve (12) months prior to the date his/her claim of municipal residence is made. A person shall cease to be a resident of this Municipality on the date he/she acquires a permanent fixed place of abode and principal place of residence in any other Municipality or moves from the Town of Freeport.

B. Nonresident: The word "Nonresident" means anyone not qualified as a resident under this Ordinance.

C. Shellfish, Clams: When used in the context of this Ordinance, the words "shellfish" and "clams" means soft-shell clams, *Mya Arenaria*.

D. Municipality: Refers to the Town of Freeport, Maine.

E. All flats bordering the Wolf's Neck State Park as of December 8, 1983 are now under the jurisdiction of the Freeport Shellfish Conservation Ordinance. Recreational digging in Wolf's Neck State Park will not require a recreational license.

**6. LICENSING:**

Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this Municipality without having a current license issued by this Municipality as provided by this Ordinance.

A Commercial Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources in order to harvest shellfish commercially.

Shellfish licenses are not required in order to dig and take no more than one peck in the State Park areas where and when it is lawful to do so.

**A. Designation, Scope, and Qualification:**

(1) Resident Commercial Shellfish License: The license is available to residents of the Town of Freeport and entitles the holder to engage in the activities of commercial harvesting of shellfish in accordance with the ordinance and conservation measures of this Municipality.

(2) Nonresident Commercial Shellfish License: The license is available to nonresidents of this Municipality and entitles the holder to engage in the activities of commercial harvesting of shellfish in accordance with the ordinance and conservation measures of this Municipality.

(3) Resident Recreational Shellfish License: The license is available to residents and real estate taxpayers of Freeport. A resident-recreational shellfish license entitles the holder to dig and take no more than one peck of shellfish in any one day.

- (4) Nonresident Recreational Shellfish License: This license is available to nonresidents of this Municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day.
- (5) License Must Be Signed: The licensee must sign the license to make it valid.

**B. Applications for Commercial Licenses:**

- (1) Applications for renewal commercial licenses and new commercial licenses shall be submitted to the Town Clerk at the times specified in Section 6(E) and 6(I), respectively.
- (2) Contents of Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature, and whatever other information the Municipality may require.
- (3) Misrepresentation:
  - a) Application void. If at any time prior to the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the applicant has given false information on the license application, the Town Clerk shall request the Police Chief, or his designee, to investigate those circumstances and any other circumstances relevant to the license application and report to the Clerk. If the results of the investigation continue to suggest that the applicant has given material false information on the license application, the Clerk shall communicate the results of the investigation to the applicant and provide the applicant with an opportunity to respond in writing. If, after reviewing the applicant's response, the Clerk concludes that the applicant gave material false information on the license application, the Clerk shall void the application. A pending investigation under this subparagraph (a) shall not preclude an otherwise qualified applicant from participating in the drawing pursuant to Section 6(I), but no license shall be issued to such applicant until the Clerk has made a determination on the results of the investigation. In the event the Clerk determines to void the application, the Clerk shall award the license to the next qualified applicant on the list prepared pursuant to Section 6(I). An applicant whose application is voided shall not be entitled to any refund of license fees.
  - b) If, after the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the licensee gave false information on the license application, the Town Clerk shall request the Police Chief, or his designee, to investigate those circumstances and any

other circumstances related to the license application. If the results of the investigation continue to suggest that the licensee gave false information on the license application, the Town Clerk shall give the licensee a minimum of seven (7) days notice of a hearing before the Board of Appeals to determine whether or not the licensee gave false information on the license application. The Police Chief, or his designee, shall present the evidence suggesting that false information was given. The licensee shall have the right to present evidence to show that false information was not given. If, after hearing, the Board of Appeals determines that material false information was given, the Town Clerk shall revoke the license and give the licensee written Notice of Revocation. A licensee whose license is revoked shall not be entitled to any refund of license fees.

- (c) Change of Address: If a licensee's address changes at any time, the licensee must provide written documentation to the Town Clerk within 30 days after the change. If the Police Chief or his designee finds that there is sufficient evidence to prove that a licensee failed to notify the Town Clerk of a change of address as required under this subsection, the Police Chief, or his designee, shall present that information to the Town Clerk. If the Town Clerk determines that there was a change of address without the notification required by this subsection, the Clerk shall give notice of the suspension to the licensee and shall suspend the license for a period of 30 days from the date of such notice.

C. Application for Recreational Licenses:

- (1) Resident and Nonresident Recreational Licenses will be available beginning in June. Licenses are effective July 1 through June 30. ~~Recreational licenses purchased in year 2000 will be valid until June 30, 2001.~~
- (2) Contents of Application: The application will be in the form of an affidavit and must contain the applicant's name, current address, mailing address, birth date, height, weight, signature, and whatever other information the Municipality may require.
- (3) Misrepresentation:
  - a) Application void. If at any time prior to the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the applicant has given false information on the license application, the Town Clerk shall request the Police Chief, or his designee, to investigate those circumstances and any other circumstances relevant to the license application and report to the Town Clerk. If the

results of the investigation continue to suggest that the applicant has given material false information on the license application, the Clerk shall communicate the results of the investigation to the applicant and provide the applicant with an opportunity to respond in writing. If, after reviewing the applicant's response, the Clerk concludes that the applicant gave material false information on the license application, the Clerk shall void the application. An applicant whose application is voided shall not be entitled to any refund of license fees.

- b) If after the issuance of a license, the Town Clerk becomes aware of circumstances which suggest that the licensee gave false information on the license application, the Town Clerk shall request the Police Chief, or his designee, to investigate those circumstances and any other circumstances related to the license application. If the results of the investigation continue to suggest that the licensee gave false information on the license application, the Town Clerk shall give the licensee a minimum of seven (7) days notice of a hearing before the Board of Appeals to determine whether or not the licensee gave false information on the license application. The Police Chief, or his designee, shall present the evidence suggesting that false information was given. The licensee shall have the right to present evidence to show that false information was not given. If, after hearing, the Board of Appeals determines that material false information was given, the Town Clerk shall revoke the license and give the licensee written Notice of Revocation. A licensee whose license is revoked shall not be entitled to any refund of license fees.

- (4) Recreational License. Any person who holds a State of Maine Shellfish License is not eligible for a recreational license. A Recreational Shellfish Licensee may not engage in the wholesale or retail sale of any shellfish harvested under this license.

(5) Recreational license violations:

- a) The possession of more than one (1) peck of clams by anyone not possessing valid State and Town - issued Commercial Licenses constitutes a court summons; and if the violator is found to be in violation in a court of law, he/she will automatically forfeit said Recreational license for the remainder of the license year.
- b) If the holder of a recreational license is convicted of a wholesale or retail sale of shellfish harvested within the Town of Freeport under the recreational license, that recreational license shall be automatically suspended from the date of conviction through the remainder of the license year.

- D. Fees Effective January 1, 1999: The fees for the licenses are as stated below and must accompany in full the application for the respective license. Fees received from shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

- (1) Resident Commercial: Two Hundred Dollars (\$200.00)
- (2) Nonresident Commercial: Four Hundred Dollars (\$400.00)
- (3) Resident Recreational: Ten Dollars (\$10.00)

~~Total Licenses available: 200~~

- (3) Nonresident Recreational: Twenty Dollars (\$20.00)

~~Total Licenses available: 20~~

- (5) A recreational license is not required for a digger under 12 years of age to engage in recreational clam harvesting.
- (6) License Fees will be waived for individuals 65 years or older for recreational licenses only.
- (7) No fees (commercial or recreational) are refundable at any time.

- E. Limitation of Diggers: Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

- (1) Prior to May 15 the Freeport Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources will establish the number of commercial and recreational licenses to be issued. ~~The Shellfish Commission may adjust the number of Recreational Licenses by up to 10% during the license year (July 1 to June 30).~~

- (2) The Shellfish conservation Commission will notify the Town Clerk in writing prior to June 1 of the number of licenses to be issued. No reservation will be accepted by telephone.

- (3) ~~The Town Clerk shall issue commercial renewal and new licenses to residents and non-resident according to the following priority: Ten percent of the renewal and new commercial licenses shall be retained for non-residents during the period of issuance.~~

- (3) The town clerk shall issue licenses to residents and non-residents as specified below: From July 1<sup>st</sup> through September 28<sup>th</sup> annually, 10 % of the commercial licenses and 10 % of the recreation licenses shall be reserved for non-residents. Beginning September 29 annually, any

remaining licenses shall be issued on a first come, first serve basis, without regards to residency.

**Renewal Commercial License:** An application for a renewal commercial license must be made at the Town Clerk's office during a regular business day during the month of April and must be accompanied by payment of 50% of the required license fee. This 50 % payment must be received before the close of business on the last business day in April. The remainder of the fee must be paid no later than the close of business on the last business day in May. Failure to pay either the 50 % or the 100% of the license fee by the close of business on the last respective business days shall result in not being eligible for a renewal license. Renewal licenses will then be issued at the Town Clerk's office during regular business days in June. Such licenses shall be valid from July 1 through June 30.

As an alternative to making application at the Town Clerk's office, an application for a renewal commercial license may be submitted to the Town Clerk's Office by mail. Applications by mail must be received at the Town Clerk's office on a day the Clerk's office is open for business no earlier than April 1 and no later than April 30. The application must be accompanied by the 50% of the required license fee. The Town Clerk shall mark all applications with the date and time of receipt.

To be eligible to purchase a renewal license, a person must have been licensed for the previous year; and must have completed eight (8) hours of conservation work as determined by the Shellfish Conservation Commission. Failure to meet the requirements set forth by the Freeport Shellfish Commission shall result in failure to qualify for a renewal license. In the event that the number of qualifying applications exceeds the number of available licenses, licenses shall be awarded pursuant to the procedure set forth in Section 6 (I) of this Ordinance.

Of the eight (8) hours of conservation work one must complete for license renewal, at least four (4) hours of the conservation time must be used to do clam flat survey. If a survey is not needed in a particular year, license holders must still complete eight (8) hours of conservation time as determined by the Shellfish Commission. No person may perform conservation work as a surrogate for the applicant. The Shellfish Commission may substitute other types of conservation work for the clam survey work for those at the request of commercial harvesters age 60 and over. Any requests shall be made by the license holder in person by the last regularly scheduled Freeport Shellfish Commission meeting before the conservation activity is scheduled. Any commercial harvester who removes clams from the flats for personal use or sale while engaged in conservation work will not receive credit for that conservation work.

The Shellfish Conservation Commission shall waive all or part of the requirement for conservation time for an applicant who provides the Commission with a written statement from a physician indicating that the applicant was not able to participate



in any regularly scheduled conservation time due to incapacitation by illness or injury. At the request of an applicant, made at a regular monthly meeting of the Commission, the Commission may arrange on an hour-for-hour basis:

- (a) Another time to complete conservation work for an applicant who demonstrates to the Commission that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time: or
- (b) Alternate less strenuous work for an applicant who provides the Commission with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.

F. License Expiration Date: Each license issued under authority of this Ordinance expires at midnight on the thirtieth (30th) day of June.

G. Reciprocal Harvesting Privileges: Freeport does not currently participate in a reciprocal harvesting agreement with any other municipality.

H. Suspension: If the Police Chief or Shellfish Warden presents to the Town Clerk evidence that any licensee has been convicted of two violations of this Ordinance within the license (July 1 to June 30) year, the Town Clerk shall give the licensee seven (7) days notice of the suspension of the license for thirty (30) days, stating the reason for the suspension. The licensee has the right to meet with the Town Clerk during that seven (7) day period to review the evidence of convictions in the Town Clerk's possession, and to present any evidence showing the licensee does not have the convictions. A third conviction of violations of this Ordinance in the same licensed year will result in forfeiture of the license for the remainder of the licensed year. This suspension/forfeiture rule applies to commercial licensees. A commercial harvester whose license has been suspended or forfeited may still be eligible for a renewal license in the subsequent year, provided he/she has fulfilled conservation -work requirements. See Section 11 for recreation license violations.

I. New Commercial Licenses: New Commercial licenses, when available, will be advertised in the local newspaper(s) during the first week of June in the year in which the license(s) become available (hereinafter called the new-license year). Applications for these licenses must be received by the Town Clerk no later than June 15 of the new-license year and must comply with the provisions of Section 6.B of this Ordinance. Any licenses(s) available for the new-license year will be issued by June 30 in accordance with the following procedure:

- (1) The Town Clerk shall designate an assistant, who may be any appointed municipal official or municipal employee who is disinterested in the outcome of the procedure. "Disinterested" means not related by blood, marriage or adoption to any of the applicants and not having a direct or indirect pecuniary interest in the outcome of the procedure. No elected municipal official and no member of the Shellfish Conservation Commission shall serve as the Clerk's assistant in carrying out this procedure.
- (2) The Clerk shall prepare a list of the names of the qualifying applicants; the list need not be in any particular order. Next to each name on the list, the Clerk shall enter a unique three digit number, selected at random, and shall write each such number on an index card. All the index cards shall be of uniform size, color and texture.
- (3) The Clerk's assistant shall then place all the numbered index cards in a box or other container capable of being closed and sufficiently large that the index cards can be mixed by shaking the container.
- (4) The Clerk's assistant shall shake the container in order to mix the contents, and shall then place or hold the container at a location above the Clerk's eye level so that the Clerk can reach into the container and withdraw cards without seeing the numbers on the cards.
- (5) The Clerk shall withdraw the cards one-by-one, reading each number drawn aloud. The Clerk's assistant shall make a list of each of the numbers so drawn in the order in which they are drawn. Then, using the list prepared under subparagraph 2 above, the Clerk shall place the corresponding applicant's name next to each number.
- (6) The Clerk shall then issue the available licenses to the qualifying applicants, first to residents and then to non-residents, in the order in which their names appear on the list prepared under subparagraph (5).
- (7) The procedure set forth in this Section 6 (I) shall be a public proceeding, open to the public pursuant to 1 M.R.S.A. Section 403, but no applicant or any member of the public has any right to participate in the procedure. Applicants are not required to be present at the time the licenses are issued. The procedure shall be conducted at the Freeport Town Office on the dates designated in Section 6 (E) (3) for each category of license, at a time to be set by the Clerk. The Clerk shall announce the exact time for the procedure by posting a notice in the Freeport Town Office at least seven (7) days prior to the date of the procedure. Any failure to provide such notice shall not invalidate the results of the procedure.

J. **No Night Harvesting:** It is unlawful for any person to dig or take shellfish from the shores or flats of Freeport at night. For the purposes of this paragraph, the term "night" means that period of time beginning one hour after sunset and ending one hour before sunrise.

K. **Aiding and Abetting:** A harvester holding a commercial license who aids and abets the harvest of shellfish in violation of this Ordinance shall be subject to the same penalties as the person he has assisted.

7. **OPENING AND CLOSING OF FLATS:** The Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation of the Department of Marine Resources Area biologist that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Shellfish Conservation Commission may call a public hearing on ten-day's notice published in a newspaper having general circulation in the Town, stating the time, place and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Shellfish Conservation Commission made after hearing shall be based on findings of fact.

Winslow Park Closure: In order to preserve a beach area for the public use during the summer months, a portion of the flats within and adjacent to Winslow Park shall be closed to shellfish harvesting between May 1 and November 30 annually. The portion so closed is the area on the left side of the public boat ramp (as viewed from the land) lying between the shore and a line extending easterly from the seaward tip of the boat ramp to a red painted post at a point on the shore established by the Shellfish Warden. In consideration of that seasonal closure and notwithstanding anything to the contrary in Chapter 34 of the Freeport Code (Winslow Park Administrative Policies), commercial license holders using Winslow Park shall not be charged any parking or ramp fees.

8. **FINES:** Any person harvesting shellfish in an area closed for conservation shall be subject to the following: violating any provision of this Ordinance shall be subject to, but not limited by, the penalties established by State Law, Title 12 M.R.S.A., Section 6671.
9. **MINIMUM LEGAL SIZE OF SOFT SHELL CLAMS:** It is unlawful to possess soft shell clams that are less than two (2) inches in length. The tolerance is listed below:

A. Tolerance: Any person may possess soft shell clams that are less than two (2) inches if, beginning on the effective date of this article, they comprise less than 10% of any bulk pile; and beginning in calendar year 1986, they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by count of the entire pile if it contains less than one (1) peck.

B. Method of Determining Tolerance: The tolerance is determined by a one (1) peck measure of a "LOT". The word "LOT" as used in this Ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel or other container, the contents of each box, barrel or container constitute a separate "LOT".

10. **EFFECTIVE DATE**: This Ordinance which has been approved by the Commissioner of Marine Resources shall become effective after its adoption by the Municipality provided a certified copy of the Ordinance is filed with the Commissioner within twenty (20) days of its adoption.

# **TOWN OF FREEPORT**

## ***Memo***

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**TO:** Dale C. Olmstead, Jr., Manager  
**FROM:** Johanna Hanselman, GA Administrator  
**SUBJECT:** Browntail Moth Caterpillars  
**DATE:** February 4, 2003

Attached you will find copies of three letters I received from residents who would like to see the Town conduct another aerial spray program to control the browntail moth caterpillar. Additionally, I have been receiving a number of calls from residents expressing either their desire to spray or not to spray. As of today, 39% of the calls have not wanted to be included in a municipal aerial spray program.

These calls and letters confirm the difficulty inherent in a municipal aerial spray program. One letter comes from someone who owns property on the water and abuts Wolfe Neck State Park. As you know, a municipal aerial spray program cannot include property within 150 feet of the shoreline and the State Park is prohibited from using pesticides. Consequently, this property would not be included in any aerial spray program conducted by the town. Another property owner speaks to the impact of continual defoliation on their mature elm trees. Dick Bradbury did address this concern at the public information meeting last week and spoke to the strength and resilience of these oaks (especially if given additional fertilizer).



podkaminer    □    kinderlane    □    jamesville, n.y. 13078

28 January 2003

Town Council  
Town of Freeport  
30 Main Street  
Freeport, Maine 04032

Re:    Browntail Moth Spraying Program

Town Council Members:

I wanted to let you know of my concerns regarding the Browntail Moth Problem. I own two properties off of Wolf Neck Road in Freeport and have been severely impacted by the presence of the Browntail Moth. Members of my family are not able to come to the summer home that has been in our family for over fifty years. The medical problems which have affected some of my family have persisted over several months after a single visit to Wolf Neck. The problem is not just for the few weeks that the caterpillars are shedding, but persists throughout the year.

Regardless of how tenacious I am in treating the problem with tree spraying and tree injections on my own property, I cannot handle this problem with out the assistance of the town and the community. It is truly a community problem and a great health hazard to many people.

The concerns of public health makes it imperative that the Town take action to educate and inform the public of the need to proceed with the aerial spraying to control the browntail moth caterpillar. The impact of this pest has only increased over the past years and with out a community effort it will continue to spread. The opportunity to attack this pest is very limited and everything possible needs to be done to bring this problem under control and limit its impact on the town's residents.

I believe that any money set aside to rebate me for having my own properties sprayed (because aerial spraying is not allowed adjacent to the park) would be far better utilized if it were directed to educate the public about the hazards and impact of the browntail moth and the desperate need for the aerial spraying program to proceed.

Thank you for addressing this problem.

Sincerely

Jane L.K. Podkaminer







**ROBERT & JILL CHECKOWAY**  
**6 Broad Sound Lane**  
**Freeport, ME 04032**  
**865-1191**

January 27, 2003

**Ms. Johanna Hanselman**  
**Public Health Officer**  
**Town of Freeport**  
**30 Main Street**  
**Freeport, ME 04032**

Dear Ms. Hanselman:

We were delighted to receive the card advising us that our property falls within the area designated for browntail moth spraying, but because Tuesday's meeting conflicts with the open house at the High School we have to comment by letter.

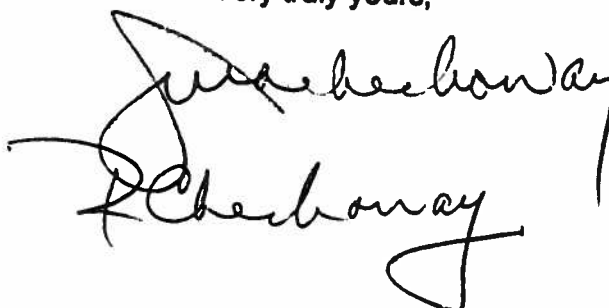
We moved to Freeport two years ago and our first year here was miserable because of the browntails. After a few visits to the doctor identified the cause of the problem and long clothing failed to solve it, we barely left the house until late in the fall. Just walking the dog or working in the yard became a source of disabling irritation. But we were horrified to watch those little creatures shred every leaf off every oak tree we could see, big and small, on our property and everywhere around it, in the space of a few short weeks, like cartoon pests. After they moved on the trees — many of them 50 and 75 years old — were completely or largely denuded but many of them sprouted a second, stunted growth of leaves late in the season.

So the sound of the spray plane last year was a great relief to us, and we experienced no undesired side effects. But the toxic barbs were still all over the place, and the oaks just aren't the same. Every tree leafed out strangely late and slow last year, with many previously productive branches not budding at all and others producing dwarf leaves. Some of the biggest trees formed buds on only a fraction of their branches. This condition is generally called "oak decline," a syndrome of problems — often brought on by insect infestation, as happened here — which generally hastens the death of mature oaks.

People and lobsters and organic vegetables and browntails come and go from time to time, but the oaks on our property and as far as we can see are long-term assets which may already have been compromised, and if they are defoliated again this year I fear most of them will be killed. Please, spray to suppress browntails during 2003 — for our comfort and health, to avoid extensive loss of trees and damage to property, and to preserve our home and its value.

Thank you.

Very truly yours,

The block contains two handwritten signatures in dark ink. The top signature is 'Jill Checkoway' and the bottom signature is 'Robert Checkoway'. Both are written in a cursive, flowing style.



January 30, 2003

Ms. Johanna Hanselman  
Town of Freeport  
Freeport Town Hall  
Freeport, Maine 04032

Dear Johanna:

I would like to go on record supporting the Town of Freeport's Brown tail Moth aerial Spray program for the spring of 2003.

Every member of my family other than myself has had an adverse reaction to the caterpillar fibers. It has been so bad, that we once considered seeking medical attention due to respiratory distress experienced by my youngest daughter.

Last year, following the aerial spraying of our area, our local brown tail problem and my family's related medical problems were both dramatically reduced.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirk Goddard', with a stylized flourish at the end.

Kirk Goddard 51 Cranberry Ridge Road



## 2003 FREEPORT TOWN COUNCIL MEETING SCHEDULE

- March 18** Workshop on Capital Budget
- March 25** Regular Council Meeting
- March 31** Council Orientation (6:00 p.m. – Library)
- April 1** Regular Council Meeting
- April 8** Workshop on Budget for FY 2004
- April 22** Regular Council Meeting
- May 1** Copies of Proposed Municipal and School Budget with overviews of programs will be available at the Town Hall for all interested citizens.
- May 6** Regular Council Meeting – Set Public Hearing on Operating Budget and Budget Presentation
- May 12-16** Individual Councilor Meetings  
Meetings with individual councilors to review school and municipal operating budget requests. (Councilors will be responsible for setting up meetings by contacting the Manager and Superintendent).
- May 14-15** Public Sessions  
(Members of the public will be given two sessions to meet with Municipal Administrators to gather information on budgets).
- May 14 - Municipal Budget 5:00 p.m. to 6:30 p.m.  
May 15 - Municipal Budget 8:00 a.m. to 9:00 a.m.
- May 19** Workshop on the Municipal Budget  
(Councilors will workshop with Municipal Administrators to review budgets).
- May 20** Regular Council Meeting
- May 21** Workshop on the School Budget  
(Councilors will workshop with School Officials to review budgets).
- May 27** Public Hearing on all Budget Proposals
- May 29** Workshops on Budgets (If necessary)  
(Councilors will meet with Municipal Administrators & School Officials to review budgets).
- June 3** Budget Adoption
- June 17** Regular Council Meeting

<b>July 1</b>	<b>Regular Council Meeting</b>
<b>July 15</b>	<b>Regular Council Meeting</b>
<b>August 5</b>	<b>Regular Council Meeting</b>
<b>Sept. 2</b>	<b>Regular Council Meeting</b>
<b>Sept. 16</b>	<b>Regular Council Meeting</b>
<b>Oct. 7</b>	<b>Regular Council Meeting</b>
<b>Oct. 21</b>	<b>Regular Council Meeting</b>
<b>Nov. 4</b>	<b>Election Day</b>
<b>Nov. 18</b>	<b>Organizational Meeting</b>
<b>Dec. 2</b>	<b>Regular Council Meeting</b>
<b>Dec. 16</b>	<b>Regular Council Meeting</b>