

INCORPORATED VILLAGE OF FREEPORT

BOARD OF TRUSTEES MEETING

MUNICIPAL BUILDING

46 North Ocean Avenue

Freeport, NY 11520

September 23, 2024

5:30 p.m.

M E M B E R S :

ROBERT T. KENNEDY MAYOR

RONALD J. ELLERBE DEPUTY MAYOR

CHRISTOPHER L. SQUERI TRUSTEE

EVETTE B. SANCHEZ TRUSTEE

JORGE A. MARTINEZ TRUSTEE

* * *

PAMELA A. WALSH-BOENING VILLAGE CLERK

HOWARD COLTON VILLAGE COUNSEL

JENNIFER UNGAR DEPUTY VILLAGE COUNSEL

-----EXHIBITS-----

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2 MAYOR KENNEDY: Madam Clerk, please
3 proceed with our public hearing.

4 THE CLERK: We have a public hearing
5 to consider the adoption of the Village's
6 Recodification Code.

7 MS. UNGAR: Good evening, Mayor and
8 Board. Before I get started, I wanted to
9 address a few housekeeping matters. Mayor,
10 with your permission, I would like to have
11 the following documents entered as exhibits
12 for the purpose of this public hearing:

13 Exhibit A - The directive setting the
14 public hearing date.

15 Exhibit B - The Notice of Public
16 Hearing.

17 Exhibit C - The Affidavit of Publication.

18 Exhibit D - The Affidavit of Posting.

19 Exhibit E - The Building Department's
20 negative declaration recommendation under
21 SEQRA.

22 Exhibit F - The notification to
23 Nassau County Planning Commission.

24 Exhibit G - The draft resolution of
25 the Board adopting the findings of Building

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Department.

MAYOR KENNEDY: Exhibits A, B, C, D, E, F and G are accepted.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits A through G, in evidence, as of this date.)

MS. UNGAR: At this time, I'd ask the Board for a motion to adopt the draft SEQRA resolution.

TRUSTEE SQUERI: So moved.

DEPUTY MAYOR ELLERBE: Second.

MAYOR KENNEDY: Madam Clerk, please poll the Board.

THE CLERK: All in favor.

TRUSTEE MARTINEZ: Aye.

TRUSTEE SQUERI: Aye.

TRUSTEE SANCHEZ: Aye.

DEPUTY MAYOR ELLERBE: Aye.

MAYOR KENNEDY: Aye.

THE CLERK: Any opposed?

(No response was heard.)

MS. UNGAR: At this time I'd ask that Exhibit H be the adopted resolution of the Board adopting the negative declaration of

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findings of the Building Department under SEQRA.

Exhibit I is a full draft of the codified Village Code.

Exhibit J is the proposed local law consisting of a new Article 1 of the Code in Schedule A consisting of specific revisions at the time of the adoption of the Code, and finally

Exhibit K - The proposed resolution adopting the local law.

MAYOR KENNEDY: Exhibit H, I, J and K accepted by the Board.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits H through K, in evidence, as of this date.)

MS. UNGAR: So, as you are aware, in November 2019 the Board approved a contract with the General Code to recodify our Village Code which was last codified in 1978. This has been a multiyear process. The first step was the General Code conducted an extensive review of our code, check for updates to laws, statutes and court cases which would

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2 impact our code. They came back with a 138
3 page document of questions, potential changes
4 and outdated code sections for the Village to
5 review. The Village Attorney's Office sought
6 input from all departments of any changes
7 they felt may be needed in the process. All
8 of the proposed changes were incorporated
9 into the General Code document, supplemented
10 with spreadsheets identifying the changes
11 proposed.

12 The General Code took this
13 information and created the new draft code
14 which is the Exhibit I, which you have here
15 tonight before you. This proposed draft, as
16 well as the local law and Schedule A of
17 changes were provided to you on or about
18 September 6, 2024 when the Board agenda for
19 September 9th was published to the Village
20 website. At that meeting, the Board
21 scheduled this public hearing.

22 The final draft of the code comes in
23 at 880 pages, including the vehicle and
24 traffic regulations; although, no changes are
25 being made to the vehicle and traffic

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regulations at this time.

The proposed local law before you for adoption tonight consists of a new Article 1 for the Village Code which will be entitled Adoption of Code, plus the attached Schedule A which outlines all of the changes being made in the subsequent articles of the code. The proposed resolution to be voted on tonight outlines the procedures undertaken to get to the point of this public hearing.

Just to give you a little bit of an overview of the kind of changes that were made in the code was mostly administrative cleanup type revisions. The General Code came back with names of agencies that have changes, for example, or there are sections of our code that were relevant for a specific period and time and are no longer relevant. For example, Chapter 8 from 2019 when the tax cap was temporarily overwritten for the purpose of the new discovery law, that's being deleted from the code because it applied specifically to the 2019 tax year.

There's a section from the personnel

1 retirement benefits and regulations removing
2 a section related to a New York State early
3 retirement incentive from 2002.
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5 There's changes, for example,
6 although there is no bowling alley in
7 Freeport, there had been a prohibition that
8 boweling alleys weren't allowed to be open on
9 Sundays. That prohibition is being removed
10 from the code.

11 We're also repealing the licensing
12 requirement for movie theatres that allow
13 unaccompanied minors, such as a movie matron
14 does not have to be there to supervise the
15 children anymore.

16 We repealed the article dealing with
17 registering bicycles and getting license
18 plates from the police for 25 cents.

19 One of the big changes though that is
20 important to know is Chapter 86 of the
21 Village Code is our Building Code, and one
22 major change is that we are repealing much of
23 the Building Code and adopting the model
24 Building Codes: The New York State Building
25 Codes incorporates the New York State

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2 Building Codes so there is a streamlined,
3 narrow requirement in the code, so that if
4 there are any questions or issues it's easy
5 for our Building Department to be able to say
6 you have to look to the New York State
7 Building Codes. It gives both our Building
8 Department and the contractors who work with
9 the Village a clear picture of what they need
10 to do to be able to build in the Village.

11 Similarly, in the Electricity Code,
12 we're adding in a section that all electrical
13 work must conform to the New York State
14 Building Code, as well as the electric code,
15 which wasn't a requirement in our code
16 previously.

17 In housing standards, for example, a
18 new section is going to require -- the
19 request came from the fire department
20 requiring labeling of stairwells in buildings
21 with multiple stairwells to allow for easy
22 identification for fire fighters; for
23 example, labeling the stairwells A, B, C or
24 D. This way in a dangerous fire condition
25 they could say, "Oh, I'm in Stairway A,

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2 Stairway B," and everyone knows where they
3 are. So, that was a safety request made by
4 the fire department.

5 We repealed laws that certain
6 businesses have to be closed on Memorial Day
7 and Independence Day.

8 I think those are kind of the
9 highlights and the general tone of the kind
10 of changes that are being made. There are
11 not many significant substantive changes
12 being made, it's cleaning it up and
13 streamlining it to make it work better for
14 the Village and its residents.

15 MAYOR KENNEDY: I have a question for
16 you, if you don't mind. If we're going by
17 New York State Code, if the Village's Codes
18 are more stringent, will they have to follow
19 the Village of Freeport Code?

20 MS. UNGAR: In general, it depends.
21 If New York State lays out a specific
22 requirement to be stricter, I believe we have
23 to go to the State --

24 MAYOR KENNEDY: If the Village of
25 Freeport Code is more stringent than New York

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2 State, will they still be required to follow
3 the Village of Freeport Code?

4 MR. COLTON: The Village of Freeport
5 Code, we have a section that does that. We
6 have to go to the codes counsel in Albany and
7 seek permission from the State of New York.
8 That's currently the standard now, because
9 the New York Building Code supersedes all
10 other codes, when it comes to certain
11 building issues. If the Village wishes to
12 pass any ordinance more strict or more
13 stringent than New York State Building Code,
14 then we have to go to Building Codes counsel.

15 MAYOR KENNEDY: What are we currently
16 doing?

17 MR. COLTON: We are currently
18 utilizing the New York State Building Code
19 through a provision on Chapter 86 under
20 superintendent's code.

21 MAYOR KENNEDY: So we are no longer
22 permitted to doing it that way?

23 MR. COLTON: That section itself is
24 not recommended.

25 MAYOR KENNEDY: I would like to

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2 discuss this further then, because I think
3 there are some issues with relying on
4 New York State Code superseding the Village
5 of Freeport Code.

6 MR. COLTON: New York State Building
7 Code -- for reference, the New York State
8 Building Code already does supersede. The
9 Village in two instances, within the last two
10 years, have adopted a much more stringent
11 requirement of the code. We have gone to the
12 codes counsel, and the codes counsel has
13 granted us authority to move forward.

14 MAYOR KENNEDY: I'd still like to
15 discuss this further. I have technical
16 questions. If New York State says aluminum
17 wire is fine and we want copper wire, we
18 can't amend it to use copper wire because the
19 Village Code says copper?

20 MR. COLTON: We would get permission
21 from codes counsel. New York has always
22 given us permission.

23 MAYOR KENNEDY: Okay. I'm not very
24 happy with it. Continue.

25 MS. UNGAR: That's all I have for the

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2 Board at this time, unless there are any
3 questions, further questions from the Board
4 or any members of the public.

5 MAYOR KENNEDY: If we used New York
6 State before, what is different now than what
7 we were doing before?

8 MR. COLTON: We weren't utilizing
9 New York State. We were utilizing a section
10 that was under the order of the
11 superintendent of Buildings. We were
12 basically bootstrapping through that one
13 section of our code. That being said, it's
14 not been advisable to do it that way. In
15 fact, the State recommends that we adopt the
16 New York State Building Code in its entirety
17 through this local law process. Ultimately,
18 the building code, as it is currently
19 structured, as long as I have been enforcing
20 it, which is 27 years, has superseded our
21 code; and where our code is more stringent,
22 we sought permission to move forward. The
23 good thing about it is, 99 percent of the
24 time that we made a request, the State has
25 allowed it.

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2 MAYOR KENNEDY: I happen to disagree
3 with it. I'd like to discuss it further. If
4 it's not New York State for electric or
5 New York State plumbing codes and there is
6 reasons in the plumbing code that New York
7 State has enforced that, I believe it is not
8 good valid reasons, it just traps alone.
9 New York State is trapping everyone that it's
10 something you need in the plumbing code. I
11 think it has to be further discussed.

12 We can continue. Any other
13 questions?

14 TRUSTEE SQUERI: Counsel, we're
15 adopting the State code, but what about the
16 codes that we had in the Building Department
17 to begin with?

18 MS. UNGAR: So, most of the codes of
19 the Building Department after, I believe,
20 Article 2, our court justice has struck down
21 as being superseded by New York State code,
22 and we have not been writing tickets.
23 Chapter 86 currently has 200 sections or so.
24 We have not written past number 12 in many,
25 many years. Basically, what we tend to write

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2 is 86-7, construction without permit. 86-6,
3 failed to obey superintendent's order; and
4 all of those things are incorporated by the
5 fact that if you don't -- you need to get
6 permits, and then you need to have those
7 plans and everything that are already being
8 done according to New York State guidelines.
9 So, they're being approved under New York
10 State guidelines and International Code and
11 then are being enforced through the mechanism
12 of either failing to comply to get a permit,
13 failing to obtain a permit. So, we're
14 already enforcing New York State Building
15 Codes.

16 TRUSTEE SQUERI: So if we're adopting
17 this code and then basically all the other
18 building department codes we have go away?

19 MR. COLTON: No, the buildings
20 codes --

21 TRUSTEE SQUERI: We have to go to the
22 code counsel to get it approved now, all of
23 them.

24 MR. COLTON: No. Our building code
25 section, Chapter 86-1 through 86-12 we are

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2 still maintaining, still utilized; nothing
3 has changed in those. Anything past 86-12
4 was modified in 1997 an opinion given to Gene
5 Schaffer, who was the attorney at that time,
6 may he rest in peace, from codes counsel in
7 1996/97.

8 Recently the Village received a
9 letter from the New York State validating the
10 Building Code of the Incorporated Village of
11 Freeport Chapter 86-12 all the way through
12 the end. We haven't been enforcing that
13 since the early 90's. But our codes, as they
14 currently stand now, will stay because the
15 sections of the code we are enforcing today
16 are the ones we are permitted to enforce
17 under New York State law. But we would now
18 have a direct enforcement ability to enforce
19 the New York State Building Code without
20 having to make up ways to bring the code into
21 our code with a superintendent's ordinance.
22 It's a quicker way of doing it and a way to
23 allow with our ordinance. If there is
24 something the Village wishes to do which is
25 more stringent than the New York State

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2 Building Code, we could seek permission in
3 the same manner in Albany with a hearing, and
4 they usually give it to us immediately.

5 MAYOR KENNEDY: I disagree. I think
6 we have to look at this closer. I think
7 there is going to be some issues. If you
8 basically eliminated some of the areas of the
9 codes that the Village has in effect and you
10 are strictly going by New York State, we have
11 to go back and review these. I think
12 everything should be reviewed further, before
13 we make a determination.

14 TRUSTEE MARTINEZ: Counsel, to follow
15 on what we're saying in the current
16 conversation. We are unique in the sense
17 that we are both a waterfront community and a
18 non-waterfront community. We are the second
19 largest Village in New York State. I'm
20 hearing this conversation. I am concerned
21 that there may be issues that are really
22 unique to our Village that maybe New York
23 State may not apply or may not feel is within
24 their bounds. What happens in those cases?

25 MS. UNGAR: There may be, but we're

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2 not currently changing any sections to wipe
3 out anything, other than a chunk of the
4 Building Code that we already have not been
5 using in over 25 years.

6 TRUSTEE MARTINEZ: I understand that.
7 At the same time, you are telling us we are
8 now superseded by New York State.

9 MR. COLTON: No. Our building code,
10 as it currently stands, will be recodified
11 with no changes. The only change that would
12 happen is the section that has already been
13 stricken by the State; nothing other than
14 that. Nothing changes under the code --

15 MS. UNGAR: And if there's --

16 MR. COLTON: The zoning codes stay
17 the same, our electric codes stay the same,
18 our plumbing codes stay the same. Nothing
19 changes. The only thing that is changing is
20 that we will be able to enforce the Building
21 Code without one having to figure out a way
22 to do it.

23 MAYOR KENNEDY: I'm sorry, attorneys,
24 I disagree 100 percent. There's part of the
25 New York State Code that they are enforcing

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2 the Village of Freeport. We need different
3 codes in the Village of Freeport to enforce
4 them. I won't vote for this. This wasn't
5 discussed thoroughly with us, as far as the
6 code change in New York State.

7 Do the trustees have any other
8 questions?

9 TRUSTEE MARTINEZ: Just to continue
10 the same conversation. I think we're both
11 saying the same thing from different
12 directions. Because of certain -- right now
13 I can't point to A, B or C, but I get the
14 feeling there are certain things we, as a
15 Village -- unless I'm misunderstanding what
16 you're saying. There are certain things that
17 really apply to us, and for us to then have
18 to bend or adjust to New York may not be the
19 best for our residents.

20 MS. UNGAR: Anything that previously
21 superseded the change stays, and anything
22 that we already have a conflicting statute
23 that we have not already obtained permission
24 from New York State, if anyone came in and
25 challenged it, New York State would supersede

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us.

MAYOR KENNEDY: Why are we changing it? Why are we changing the current policy that we have? What is the advantage?

MR. COLTON: The advantage is we want to go ahead and write under the State Building Code all matters will be returned under the District of Nassau County. We don't have the jurisdiction right now.

MAYOR KENNEDY: Why don't we do what we have done before, right in the Village?

MR. COLTON: We write it as a violation of the superintendent.

MAYOR KENNEDY: That's the way it should continue. I'm sorry. I disagree.

TRUSTEE MARTINEZ: It sounds like we need a little more conversation on this, once again, to make sure that we're all on the same page and understand what we're voting on. At the same time, I want to say thank you. I know this is a tremendous effort you put into this. I appreciate the cleaning up process. As part of the cleaning up process, these things come up that didn't require.

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2 Unfortunately, I disagree with it. I agree
3 with the mayor that we should probably
4 discuss it a little further and take our
5 time, and it kind of gives a further chance
6 to pick certain areas that may be
7 questionable now.

8 MAYOR KENNEDY: Trustees, comments?

9 (No response was heard.)

10 MAYOR KENNEDY: Please proceed.

11 MR. COLTON: Well, at this time,
12 mayor, we'll need a motion to adjourn the
13 public hearing until such time as the Board
14 can move forward.

15 TRUSTEE SQUERI: Make a motion to
16 adjourn.

17 TRUSTEE SANCHEZ: Second.

18 MAYOR KENNEDY: Madam Clerk, please
19 poll the Board.

20 THE CLERK: All in favor.

21 TRUSTEE MARTINEZ: Aye.

22 TRUSTEE SQUERI: Aye.

23 TRUSTEE SANCHEZ: Aye.

24 MAYOR KENNEDY: Aye.

25 THE CLERK: Any opposed?

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TRUSTEE MARTINEZ: Madam Clerk, the
deputy mayor stepped out. He was not here to
vote.

MS. UNGAR: Thank you.

(Time Noted: 5:54 p.m.)

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September 23, 2024

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C E R T I F I C A T E

I, BETHANNE MENNONNA, a Notary Public within and for the State of New York do hereby certify that the foregoing is a true and accurate transcript of the proceedings, as taken stenographically by myself to the best of my ability, at the time and place aforementioned.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, 2024.


BETHANNE MENNONNA