



Fairhaven Board of Selectmen

May 7, 2012 Meeting Minutes

Present: Selectman Brian Bowcock, Selectman Charles Murphy, Selectman Bob Espindola, Executive Secretary Jeffrey Osuch and Administrative Assistant Anne Kakley.

Also Present: John Nunes, Barbara Acksen.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:32 p.m.

MINUTES

The minutes of the **April 30** meeting, **open** session, were reviewed by the Board. Mr. Murphy requested an amendment to the April 30 meeting minutes, open session. Mr. Espindola requested numerous revisions. The minutes will be amended and presented at a later meeting. No action was taken.

The minutes of the **April 30** meeting, **executive** session, were reviewed by the Board. Mr. Espindola had several revisions to the minutes. The minutes will be amended and presented at a later meeting. No action was taken.

Mr. Osuch and the Board entered a conversation regarding the keeping of minutes. Mr. Osuch said that minutes should be a reflection of the meeting's discussion and should accurately include all votes made, but that elaborate detail was not necessary. The Board discussed how revisions should be done in the future. It was agreed that revisions would be easier to manage if copies of the revisions were made and distributed to the Board prior to the meeting.

The Board voted to accept the minutes of the **May 7**, 2012 meeting, **open** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Board on some important upcoming meetings and events:

- Tuesday, May 8 –
 - 10:00 a.m. – Meeting at BPW with Scanlon
 - 3:30 p.m. – Mattapoissett River Valley Advisory Committee at BPW

- 4:30 p.m. – Mattapoisett River Valley Water District meeting at BPW
- Friday, May 11 –
 - 10:00 a.m. – WES Construction – update meeting
- Monday, May 14 –
 - 9:30 a.m. – COA monthly meeting
 - 2:30 p.m. – Pre-bid meeting at the Wood School
- Wednesday, May 16 –
 - 1:30 p.m. – WES Job meeting at the BPW
 - 5:00 p.m. – New School meeting at the High School library
- Thursday, May 17 –
 - 7:30-9:00 a.m. – Forum meeting at the Quest building in New Bedford
 - 10:00 a.m. – Retirement Training seminar in Somerville

TINKHAM POND DAM EMERGENCY PLAN

Mr. Osuch told the Board that the Buzzard’s Bay Coalition (BBC) was now the owner of Tinkham Pond in Mattapoisett and as such, the non-profit group has developed the Tinkham Pond Dam Emergency Plan. The plan, issued to Mattapoisett officials and representatives in Acushnet and Fairhaven, details the risks and procedures involved if the dam ever broke, failed, or overtopped.

The Tinkham Pond Dam Emergency Plan included a page designating a contact for the Town of Fairhaven. The Board voted to have Dr. Brian Bowcock be the contact for the Town of Fairhaven. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous.

ZILIOLI SITE CLEARING CONTRACT

Mr. Osuch said that a Site Clearing Contract with P.M. Zilioli for the New School Project would need to be signed by the Chairman. He said that the site clearing was scheduled to begin on Saturday, May 12. Mr. Murphy motioned to authorize the chairman to sign the Contract with Zilioli. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOWN MEETING

Legislation – Mr. Osuch reflected on the Annual Town Meeting that had occurred two days prior on May 5, 2012. He asked if the Board had any questions regarding the outcome of the Town Meeting. He said that a petition to grant an All-Alcohol Package Store license to Total Confections, LLC (Emma Jean’s) and a petition to grant an easement to a Cushman Park abutter would now progress to legislation in Boston.

MRVWSPC – Dr. Bowcock asked if the Mattapoisett River Valley Water Supply Protection Committee (MRVWSPC) would consider legislation to change the wording in M.G.L. to address concerns about the MRVWSPC being able to borrow without coming back to Town Meeting.

Mr. Osuch said he was not sure what the MRVWSPC would choose to do regarding legislation or coming back to Town Meeting with an amended article. He said that MRVWSPC has never borrowed and it is not their intention to borrow.

Office of Tourism – Mr. Murphy said that it was apparent by the votes made, that Town Meeting members are feeling cautious about spending. He cited the Office of Tourism budget item, which was reduced by \$3,150, at Town Meeting. The Tourism budget reduction will likely result in the Office of Tourism moving from its current location at 43 Center Street. Mr. Murphy said that he would not support a move of that office unless it is into a handicap accessible location. Dr. Bowcock agreed with Mr. Murphy.

TOWN TAX TITLE AUCTIONS

Finance Director John Nunes came before the board to request permission to auction off five Town-owned properties: 124 Alden Road (Staffon’s greenhouse – structure and land), 12 Diamond Street (house and land), 2 Causeway Road (land, possibly buildable), land at Mangham Way and business space at 6 Arsene Way. The auction was scheduled for Saturday, June 2, 2012, Mr. Nunes said.

Mr. Nunes said that the auction would likely occur on site at 124 Alden Road. Mr. Osuch asked if there was a strategy in place to ensure that the Town could get adequate compensation for the business zoned properties at 124 Alden Road and 6 Arsene Way. He also wanted to make sure that an easement is written into the deed with the successful bidder of 124 Alden Road, for the sake of the photovoltaic arrays planned for the landfill behind the property.

Dr. Bowcock expressed interest in the Town maintaining ownership of 2 Causeway Road, which abuts a Town beach. Mr. Murphy asked if the parcel was buildable. Mr. Osuch said that there was once a structure on the lot, but it was destroyed in a storm. Mr. Murphy also expressed interest in the Town maintaining possession of that lot of land.

Dr. Bowcock said that he would like Marc Jodoin of the Emergency Management Agency (EMA) look at the office at 6 Arsene Way to see if it could have any use for the EMA. It was agreed that Mr. Nunes would proceed with listing 6 Arsene Way in the auction, with the understanding that it could get pulled from the auction listing at the last moment if the Town had use for the property.

Mr. Murphy motioned to auction off 124 Alden Road, 12 Diamond Street, land at Mangham Way and business space at 6 Arsene Way. Mr. Espindola seconded. Vote was unanimous.

SEAPORT INN ENTERTAINMENT LICENSE

The Board voted to approve a Sunday Entertainment License for the Seaport Inn for May 13, 2012 through May 5, 2013. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

LETTER TO DOR RE: FINANCIAL REVIEW

The Board voted to send a letter to Robert G. Nunes, Deputy Commissioner and Director of Municipal Affairs, requesting a financial review from the Department of Revenue (DOR). The service is free, if granted by the DOR. Mr. Murphy motioned to sign the letter. Mr. Espindola seconded. Vote was unanimous. (3-0).

USE OF TOWN COUNSEL

Before entering a discussion regarding Town Counsel, Dr. Bowcock asked Mr. Espindola if he wished to discuss the scheduled agenda matter in executive session. Mr. Espindola preferred discussing the matter in open session.

Mr. Espindola recapped the issue of his request for Town Counsel. At a previous meeting, the Board had encouraged Mr. Espindola to speak to Town Counsel regarding his capacity to vote in matters related to the ongoing wind turbine lawsuit. The Board had voted to permit Mr. Espindola to seek advice with Town Counsel, Thomas Crotty. At the May 2 meeting, Mr. Espindola asked if that offer would extend to a different attorney, as he believed that there would be a conflict of interest if he sought counsel from Atty. Crotty, because Mr. Espindola was once named on the wind turbine lawsuit on which Atty. Crotty is currently defending the Town.

Mr. Espindola presented a proposed contract to the Board from Kopelman and Paige (see Attachment A). The contract reflected an hourly rate of \$165, which is higher than Atty. Crotty's rate of \$160 an hour. Mr. Espindola said that Kopelman and Paige had indicated his case would take 3 to 3.5 hours. The contracted work would involve preparing documents and presenting them to the State Ethics Commission for a decision in his capacity to serve on the Board.

Mr. Murphy said that he was receptive to hiring Kopelman and Paige to advise Mr. Espindola, but he would like to see the rate down to \$160/hour to match Atty. Crotty's rate.

Dr. Bowcock said that there were a number of potential issues if Mr. Espindola utilized separate counsel. He did not think that the estimate of 3-3.5 hours of work that Kopelman and Paige had cited to Mr. Espindola was an accurate reflection of the work required. He said that Mr. Espindola could possibly contact the attorneys at the State Ethics Commission for no cost.

Mr. Murphy motioned to hire Kopelman and Paige at the proposed contracted rate for a maximum of four hours. Dr. Bowcock would not second. Mr. Espindola asked if he was able to second. Dr. Bowcock said he probably could not. The motion failed. Mr. Murphy motioned to discuss the topic further at the May 21 meeting. Dr. Bowcock seconded. Vote was unanimous. (3-0).

137 SPRING STREET

The Board read a note from the Selectmen's Office regarding a phone call received from Representative Barney Frank's office. Rep. Frank's office had called to pass along a received complaint regarding a derelict property at 137 Spring Street. Dr. Bowcock said that the Building

Commissioner, Wayne Fostin, had taken the owner of 137 Spring Street to Land Court in the past regarding the condition of the property. He said that Mr. Fostin would be taking the steps necessary to take the owner to Land Court again, in hopes that a judge would rule to have the owner clean up the property.

ONLINE COMPLAINT FORM

Mr. Espindola recused himself at 7:31 p.m.

The Board received a letter from the Board of Health (BOH) asking for access to the Town's information technician, Bill McCaffery, for the secure development of an online health complaint form regarding the wind turbines.

Mr. Murphy and Dr. Bowcock said that there was already a form on the Town website. BOH member Barbara Acksen stepped forward to speak with the Board regarding the matter. Ms. Acksen said that the health complaint form was developed at a working meeting of the BOH. She said that there had already been a report of the form not going through, and the BOH wants to make sure that the form is secure and anonymous, so they were requesting help from Mr. McCaffery.

It was resolved that Mr. Nunes would follow up with Mr. McCaffrey to see what kind of work would need to be done to make the health complaint form anonymous and secure. No action was taken.

Mr. Espindola rejoined the meeting at 7:36 p.m.

SPRING STREET PROJECT

The Board voted to sign Change Order #1 for the Spring Street Reconstruction Project, in the amount of \$40,239. The money involved was to come from the Community Block Development Grant, not Town funds. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

The Board voted to sign a Certification for Payment for the Spring Street Roadway Improvement Project in the amount of \$77,068.75. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

OTHER BUSINESS

- Mr. Murphy reminded the public that the Postal Service food drive was May 12. Also on May 12, he said that there would be a grand re-opening of the Recreation Center gymnasium floor at 3:00 p.m. and that the BPW would be present in the Recreation Center parking lot with their big trucks for kids to explore.

- Dr. Bowcock said that the May 6 Blessing of the Bikes went well and he commended Fire Chief Tim Francis for his work involved in the event.

The Board voted to adjourn at 7:44 p.m. Mr. Murphy motioned, Mr. Espindola seconded. Vote was unanimous. (3-0).

Respectfully,

A handwritten signature in cursive script that reads "Anne Kakley".

Anne Kakley

Selectmen's Secretary

(Minutes approved 5/21/2012)