



Fairhaven Board of Selectmen

October 15, 2012 Meeting Minutes

Present: Selectman Chairman Brian Bowcock, Selectman Bob Espindola, Executive Secretary Jeffrey Osuch, Town Finance Director John Nunes, Building Commissioner Wayne Fostin and Administrative Assistant Anne Kakley.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:33 p.m. Mr. Murphy was not in attendance when the meeting was called to order.

CONSTABLE APPOINTMENT

Resident David Miller came before the Board to request a constable appointment in the Town of Fairhaven. Although the Board had previously created a standing rule that they would not make new constable appointments because of a large number of appointed constables already residing in Fairhaven, the Board entertained an exception to the rule, because Mr. Miller, a retired corrections officer, required the appointment as a prerequisite for a job in New Bedford.

Mr. Espindola motioned to appoint Mr. Miller to constable. Dr. Bowcock seconded. Vote passed. (2-0).

SRPEDD AND EGOVERNMENT

The Board conducted an appointment with Ross Perry from SRPEDD regarding “eGovernment” and “ePermitting”, which would make certain permitting processes available online for residents. Building Commissioner Wayne Fostin also sat in on the discussion.

Mr. Perry said that eGovernment would streamline and expedite the permitting process, reduce workload, reduce use of paper, and increase permitting compliance. He claimed that a study done on eGovernment in a Connecticut town showed a 20 percent increase in permitting as a result of the online availability. Abutter notification can also be simplified with GIS as well, said Mr. Perry.

Mr. Perry said that start-up cost for eGovernment can range from \$50,000 to \$150,000, depending on how many services a Town selects. He said that he would be able to set Fairhaven up with the first year of eGovernment at virtually no cost in the first year with the help of a grant offered from the governor’s office to promote innovation at the town level. In subsequent years, Mr. Perry said that the annual maintenance cost to the Town could be offset by an increase in permitting fees, or the Town could choose to absorb the additional cost.

Mr. Fostin said that the idea of eGovernment sounded good, but he was afraid it would reduce the level of communication between his office and the individual permit applicant. He said that he did not want applicants to think that they automatically had a permit just because they filed something online. Mr. Perry said that the communication sent to the permit applicant after filling out the online form was clear about the subsequent steps and notifications. He said that the process was not intended to be a “short-cut”. He said that the Town would set the limits as to which projects could be eligible for online permitting forms.

A meeting with the eGovernment vendor was scheduled for Wednesday, October 17, but Mr. Perry said that he would like the Board to make a commitment to participating in the grant before they proceeded with the vendor meeting. Mr. Espindola motioned to authorize the Chairman to sign a letter of support for the grant application when it is received by the Selectmen’s Office. Dr. Bowcock seconded. Vote passed, (2-0).

Mr. Perry said that he would draft the letter of support for the Chairman to sign and that the application would be complete by mid November for the Board’s final review.

99 TRANSFER AND ISSUE OF STOCK

At 6:50 p.m., the Board conducted a public hearing to review an application from Pub 99 for a transfer and issuance of stock. Dr. Bowcock said that review from the Building department and the Board of Health was not required for this application. Mr. Espindola motioned to approve the transfer and issuance of stock. Dr. Bowcock seconded. Vote passed. (2-0).

LIVESEY PARK BENEFIT

At 7:00 p.m., the Board met with Ann Richard, sponsor of a project organized by a group of eighth graders to make repairs to the Livesey skate park. Ms. Richard said that the repairs would be funded by a benefit on Saturday, November 10, from 11:00 a.m. to 4:00 p.m., and that the benefit had already been approved by the BPW and the Recreation Department. She said that there would be food, games, and a bounce house at the benefit. Money raised from the benefit would repair the skate park, and any potential repairs would be approved by the proper authorities before completion, said Ms. Richard.

Dr. Bowcock agreed that the park was in need of a “safety upgrade” and the Board was supportive of the effort.

CDBG/COMMUNITY DEVELOPMENT STRATEGY HEARING

At 7:07 p.m., the Board conducted a final hearing for the CDBG/Community Development Strategy. In this hearing, the Board heard from Town Planner William Roth regarding his recommendations for the Community Development Strategy. Mr. Roth said that, based on the public hearings he held, his recommendation would be to continue with housing rehab, with the 2013 project focusing on Elliot Lane, and he recommended partnering with Middleborough in the application, with Fairhaven being the “lead community”. He said the partnership would

boost the “Community Wide Needs” score for Fairhaven. Mr. Espindola motioned to approve the Community Development Strategy as described by Mr. Roth, to continue with housing rehab and the 2013 project on Elliot Lane. Dr. Bowcock seconded. Vote passed. (2-0). Mr. Espindola motioned to authorize the Chairman to enter a contract with Middleborough for partnership in the 2013 CDBG grant application. Dr. Bowcock seconded. Vote passed. (2-0).

Mr. Roth presented the Board with a Notice to Proceed with Pavao Construction. Mr. Espindola motioned to authorize the Chairman to sign the Notice to Proceed. Dr. Bowcock seconded. Vote passed. (2-0).

Mr. Roth said that as a part of the 2013 CDBG project, he had to go out to bid for a lead abatement company. He said that the “lowest responsible bidder” was LBP Solutions out of Attleboro, MA. Mr. Espindola motioned to authorize the Chairman to sign an agreement with LBP Solutions for lead abatement. Dr. Bowcock seconded. Vote passed. (2-0).

WASHBURN LAND TRADE – CUSHMAN PARK EASEMENT

The Board discussed a potential land trade deal in the area of Washburn Ave to satisfy the requirements of an easement for Bradford Souza, of 188 Green Street, who successfully petitioned Town Meeting for an easement for lawful egress to his property over a sliver of Cushman Park. As a part of its approval, the House and Senate required a donation of land to offset the easement, and the Board had determined that the Washburn Ave parcel could be an adequate conservation donation for that purpose because it was larger than the easement in question.

Mr. Osuch said that the recording and legal costs would have to be absorbed by someone as a result of the transaction. Dr. Bowcock said that he thought that Mr. Souza should pay for the associated costs. Mr. Espindola agreed. It was resolved that the Selectmen’s Office would determine all legal costs associated with the transfer of land for the sake of Mr. Souza’s easement and once those costs are determined, they will proceed with a vote.

ICE HOUSE LLC

At 7:23 p.m., the Board conducted a public hearing for Ice House LLC for a liquor license transfer. Present at the hearing was manager Chris Bentley and his attorney, Emile Morad Jr. Dr. Bowcock read the legal advertisement. Atty. Morad corrected the occupancy listed in the legal advertisement, saying that the actual occupancy was 247. The Board of Health had no issues with the application, said Dr. Bowcock. Ice House LLC is the owner, but it was still undetermined what the d/b/a will be. The Board told Mr. Bentley that they wanted all employees at Ice House to be TIPS certified or equivalent. Mr. Bentley agreed. Mr. Osuch asked Mr. Bentley if he was TIPS certified. Mr. Bentley said he was. He said that most of the current employees at Ice Chest will be kept on at Ice House under its new management.

Mr. Espindola motioned to approve the liquor license transfer. Dr. Bowcock seconded. Vote passed. (2-0).

MINUTES

- The Board voted to accept the minutes of the **October 1, 2012** meeting, **open** session. Mr. Espindola motioned. Dr. Bowcock seconded. Vote passed. (2-0).

EXECUTIVE SECRETARY'S REPORT

- Tuesday, October 16 –
 - 10:00 a.m. – Wood School Job meeting
 - 11:00 a.m. – Light gauge /roof meeting – Wood School
- Wednesday, October 17 –
 - 8:30 a.m. – Water District Budget Meeting at Mattapoisett Water Department
 - 1:00 to 3:00 p.m. – Ross Perry presentation – eGovernment – SRPEDD
 - 3:00 to 4:00 p.m. – Bob Espindola – Budget Meeting
- Thursday, October 18 –
 - 7:30 – 9:00 a.m. – Forum meeting at the Quest Center
 - 8:00 to noon – AIM – Worker's Comp meeting in Taunton
 - 6:00 p.m. – New School Committee meeting at Town Hall
- Monday, October 22 –
 - 8:30 a.m. – Retirement Board meeting
- Tuesday, October 23 –
 - 10:00 a.m. – Wood School Job Meeting
 - 11:00 a.m. – Roof – Preconstruction meeting
- Wednesday, October 24 –
 - 9:00 a.m. – Buzzard's Bay Action Committee meeting – Wareham
- Thursday, October 25 –
 - 7:00 p.m. – Finance Committee budget meeting

WORKER'S COMPENSATION

Mr. Osuch said that the Town has had a very good year for worker's compensation and there has been very little time lost by employees. He said that this will help in the future for the Town's worker's compensation insurance rate.

SPECIAL TOWN MEETING

Mr. Osuch told the Board that a representative from the Greater New Bedford Regional Vocational Technical High School would be attending the October 29 Board of Selectmen meeting to discuss a potential \$17 million +/- expansion and renovation project for the school. The project would require approval from New Bedford, Fairhaven and Dartmouth. New Bedford has already given its approval and Dartmouth was scheduled to vote on the matter at an October 16 Special Town Meeting. Mr. Osuch said that if New Bedford and Dartmouth both approved

the project and Fairhaven took no vote, it would automatically default to approval and Fairhaven would be required to fund the project. If Fairhaven took a vote at Town Meeting to not fund the project, then it would fail outright.

The Town has 60 days from the date of the School Committee's decision to take a vote on the project, Mr. Osuch said, which means Fairhaven would have to hold a Special Town Meeting and take a vote by December 8. Mr. Osuch suggested that the Board should consider setting a date for the Special Town Meeting. Dr. Bowcock said that the Special Town Meeting should be in the first week of December. It was agreed that Tuesday, December 4 would be the ideal date, with December 5 being a back-up date in case the Hastings Middle School auditorium was not available on December 4.

Mr. Murphy joined the meeting at 7:39 p.m.

Mr. Osuch said that the Board would also have to set a deadline for article submission. Dr. Bowcock suggested that the Board set an article submission deadline of October 25. Mr. Murphy motioned to set a Special Town Meeting date of December 4, with December 5 as a back-up, and to set an article submission deadline of October 25. Mr. Espindola seconded. Vote was unanimous. (3-0).

MOODY'S REVIEW

Mr. Osuch updated the Board to the recent Moody's Review. The review was completed the week prior to the meeting for the sake of a \$5 million bond for payments for the New Wood School. The bond rating was favorable, said Mr. Osuch, and this will likely result in a low interest rate for the loan.

LANDFILL SOLAR PROJECT

Mr. Osuch said that equipment for the landfill solar project would be on site later in the week.

HISTORICAL COMMISSION APPOINTMENTS

The Board voted to appoint Anne Kakley and Vicki Paquette to the Historical Commission as associate members. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

MILLICENT LIBRARY TRUSTEE APPOINTMENT

The Board voted to appoint Anne Kakley to the Millicent Library Board of Trustees. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMIT

The Board reviewed an NSTAR gas permit application for 9 Jeannette Street between Huttleston Ave and the dead end. The application was previously approved by the BPW. Mr. Murphy motioned to approve the permit. Mr. Espindola seconded. Vote was unanimous. (3-0).

NEW SCHOOL REQUISITION

The Board reviewed a requisition from CTA Construction for the New Elementary School project. The requisition was in the amount of \$760,162. Mr. Murphy motioned to approve and sign the requisition. Mr. Espindola seconded. Vote was unanimous. (3-0).

STATE ELECTION WARRANT

The Board reviewed the Warrant for the State Election, scheduled for November 6, 2012. The Board voted to approve and sign the Warrant for the Town Clerk to post. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

NSTAR ELECTRIC EASEMENT

The Board voted to sign an easement for NSTAR Electric for Lot 17A, the landfill. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

FAIRHAVEN VARSITY CLUB ALCOHOL PERMIT

The Board reviewed an application from the Fairhaven Varsity Club for a one-day, all-alcohol permit for a fundraiser. Mr. Murphy motioned to approve the application. Mr. Espindola seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMIT

The Board reviewed an NSTAR gas permit application for 34 Brook Drive between Hill Street and the dead end. The application was previously approved by the BPW. Mr. Murphy motioned to approve the permit. Mr. Espindola seconded. Vote was unanimous. (3-0).

HANDICAP PARKING SPACE REQUEST

The Board heard a request from resident Diane Mentzer, requesting that a street space in front of her home at 8 Briercliffe Road, be designated handicap parking. She said that in the event of snow, she would be willing to park on the opposite side of the street to allow plow passage. Ms. Mentzer said that she had physical ailments that made walking difficult and she said she had a handicap parking placard.

Mr. Murphy motioned to approve Ms. Mentzer's request. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOWN TREASURER RESIGNATION

The Board reviewed a letter from Director of Finance/Treasurer John Nunes, resigning from his position effective November 2, 2012. Mr. Nunes will be leaving Fairhaven to accept a Treasurer position in Fall River. The Board thanked him for his work over the past seven years and both parties wished each other well in the future.

Mr. Osuch said that Mr. Nunes had agreed to assist with completing the tax recap before leaving. He said that the Board had received a copy of the Treasurer's job description in their packets, but they may want to wait until the DOR Financial Review is available before considering the Treasurer's job description and before advertising the position.

OFFICE OF TOURISM MOVE

Dr. Bowcock said that the Tourism Director, Christopher Richard, was in the process of moving into the Academy Building, but had recently run into opposition from the Historical Society, who will share the Academy Building with the Office of Tourism. At a previous meeting, it had been decided by the Board of Selectmen that Mr. Richard would be using a small office off the "Period Room" and would use the hallway in the front of his building for brochures and displays, leaving the rest of the Academy Building to be used by the Historical Society.

Mr. Richard had given the Historical Society an October 1 deadline to move their items – two benches and a desk – out of the front hallway. When the Society failed to move the furniture by the deadline, Mr. Richard moved the furniture into the classroom on the east side of the building on October 13. At the October 14 Farmers' Market, a member of the Society moved some of the furniture back.

Dr. Bowcock proposed that the Board of Selectmen send a firm letter to the Historical Society, requesting their compliance with Mr. Richard's move. The Board ultimately did not vote to send the letter, however, as Mr. Espindola said that he would rather use his position as the ex officio member of the Historical Commission to mediate the issue with Mr. Richard and a representative of the Society.

Dr. Bowcock indicated that he wanted the matter placed on the agenda for the October 29 meeting, with the hopes that the matter could be resolved before then.

OTHER BUSINESS

In other business:

- Mr. Murphy said that he had recently taken a pilgrimage to Hawaii to visit Father Patrick Killilea at his new parish, and to visit the island of Molokai, where the recently canonized Father Damien once tended to colonies of the sick.
- Mr. Espindola said that he wanted Jack Egelston of Blue Sky Power to attend an upcoming meeting for an update on the solar landfill construction.

- Mr. Espindola said that he would like to attend the Finance Committee meeting on October 25. He suggested posting it as a Selectmen's meeting, because it was possible a quorum would be present.
- The Board noted the passing of John Frates, a 50-year veteran of the Fire Department. The Board offered its condolences to Mr. Frates' family.

BUILDING COMMISSIONER

The Board met with Building Commissioner Wayne Fostin to discuss his job requirements as outlined in his job description (see Attachment A).

Dr. Bowcock said that Mr. Fostin has a lengthy job description, which includes his role as a Building Commissioner, Conservation Agent, and Zoning Enforcer.

The Board asked Mr. Fostin to review his job description and point out anything that he has difficulty performing. Mr. Fostin said that he does everything on the list. He said that he just cannot complete tasks as fast as people would like. He said that he has to share his secretary with the Board of Health and that time constraints make it difficult for him to complete all his tasks as quickly as he would like.

Mr. Espindola asked why, after years of faithfully attending Conservation Commission meetings, Mr. Fostin suddenly stopped attending the meetings, following a discrimination accusation made by a ConCom member. Mr. Fostin claimed that he stopped attending the ConCom meetings because he felt he was not needed there and preferred spending his 10 hours a week of Conservation work in the office, answering questions, instead of at the meetings. He said that his absence had nothing to do with the accusations.

The Board asked why Mr. Fostin had stopped attending ZBA meetings. Mr. Fostin replied that he had only missed two ZBA meetings. He also noted that the State cites the presence of a Building Commissioner at a ZBA meeting as potential conflict-of-interest, because the ZBA is designed to offer relief from zoning laws on a case-by-case basis, and the presence of the Building Commissioner/Zoning enforcer could possibly influence the ZBA's vote. Mr. Fostin said that he would supply the Board with documents from the State backing up this claim at a later date.

At 8:30 p.m., Mr. Murphy motioned to enter Executive Session to continue the discussion with Mr. Fostin to discuss potential litigation with the Seaport Inn. The Board also said that they would discuss the Town Treasurer's position and a banking document related to the Solar Landfill project. Mr. Espindola seconded the motion. Vote was unanimous. (3-0). Roll call vote to enter executive session: Mr. Murphy in favor. Mr. Espindola in favor. Dr. Bowcock in favor.

Respectfully,

Anne Kakley

Selectmen's Secretary

(Minutes approved 10/29/2012)

JOB DESCRIPTION

Attachment A

BUILDING COMMISSIONER

18.61 TO 21.82

SALARY RANGE \$13.09 to \$15.31 PER HOUR

(LEVEL 15) Level 17

1. General Statement of Duties: Inspects buildings for compliance with building codes and zoning ordinances. Responsible for office staff and attends meetings with Planning Board, Board of Appeals, Conservation Commission and others as required. Building Commissioner is Town's ADA Coordinator. Assists all Town Departments in repairs and maintenance of buildings.

2. Example of Work: Inspects buildings in the course of construction, alteration and repairs as frequently as necessary for adequacy of foundation, structural safety and the conformity of the entire structure with approved plans. Discusses construction, alteration and repair of building with contractor, property owners, or other interested parties, explaining and interpreting building codes and regulations and zoning by-laws. Prepares reports of inspections performed covering conditions found, actions taken and recommendations made for further action.

Assists residents, contractors, engineers, etc. in preparing permits or applications for the Planning Board, Board of Appeals and Conservation Commission. Attends public hearings and meetings as required. Performs inspections of Town Buildings and coordinates repairs as needed. Prepares all documents, reports, etc. and supervises repairs, construction, etc. to comply with the Americans with Disabilities Act. (ADA).

Must enforce zoning by-laws impartially.

3. TYPE OF DUTIES:

A. Building

1. Enforce the 5th edition of the Massachusetts State Building Code.

- a. review plans
- b. issue building permits
- c. inspect construction as per schedules
- d. issue occupancy permits
- e. act on building complaints
- f. make yearly inspections per table 108 of the code, and issue certificates
 - 1.) approximately 175 inspections
- g. supervise staff and assist them
 - 1.) clerical
 - 2.) plumbing inspectors
 - 3.) gas inspectors
 - 4.) electrical inspectors

- h. attend required seminars
- 2. general patrol of Town to try to cut down on the illegal construction that takes place
- 3. assist public - advising them of code requirements
 - a. standard construction
 - b. flood plain construction
- 4. Logs
 - A. Commissioner
 - 1. violations
 - 2. daily work sheet
 - B. Reports performed by secretary
 - 1. monthly; to Board of Selectmen, Assessors, Fire Department, F.W. Dodge and Department of Commerce
 - C. Kept by secretary
 - 1. cash
 - 2. building permits
 - 3. ledger
 - 4. records of variances and Special Permits for Board of Appeals
 - 5. review all billing
 - 6. reports to Fire Department on sizable building permits
 - 7. inspect fire-damages structures, upon receipt of notice from Fire Department
 - 8. attending meetings when required
 - a. Board of Appeals
 - b. Planning Board
 - c. Board of Selectmen
 - 9. assisting different departments on projects relating to Town property
- B. Zoning Enforcer
 - 1. enforce current zoning by-laws
 - a. review site plans to see if they conform
 - b. research lot ownerships
 - c. issue fill permits
 - d. act on zoning complaints
 - 2. assist public - advise them what zoning requirements are:
 - a. standard requirements
 - b. flood plain requirements
 - c. Nasketucket River Basin
 - 3. Logs
 - a. violations
 - 4. attend seminars
 - a. code seminar on Chapter 40A of the General Laws

5. field inspections on violations Attachment A

C. Fence Viewer

1. assist public on fence problems
 - a. only in the case of a partition fence

D. General

1. assist other Town departments (Assessors, Fire Department, Board of Health, Board of Public Works, etc.)
2. assist public on Board of Appeals forms and procedures
3. respond to inquiries
4. update office procedures

4. Required Knowledge, Skills and Abilities:

Good knowledge of the materials, methods and practices used in building construction, and of stages of construction when possible defects and violations may be most easily observed and corrected; good knowledge of construction costs and bid specifications preparations; some knowledge of legal procedures as related to the enforcement of Town by-laws and codes; must be able to prepare case for violations for Housing Court in New Bedford. Ability to recognize faulty construction and to recommend effective corrective measures; ability to read and interpret building construction plans and specifications and to recognize deviations from such plans in the construction process; ability to enforce codes and regulations firmly and impartially; ability to establish and maintain effective working relationships with contractors, property owners, developers, representatives from state and local agencies and departments. Ability to express one self clearly orally and in writing; good physical condition.

5. Experience and Training:

Each building commissioner shall have at least five (5) years of experience in the supervision of building construction or design or in the alternative a four year undergraduate degree in a field related to building construction or design. In addition, such persons shall have had general knowledge of the accepted requirements for building construction, fire prevention, light, ventilation and safe egress; as well as a general knowledge of other equipment and materials essential for safety, comfort, and convenience of the occupants of a building or structure; plus whatever other requirements of experience and knowledge that are deemed necessary to the municipality.

Must have a valid Massachusetts Driver's License. Must be able to be certified as a Massachusetts approved Building Commissioner within six (6) months of appointment.