



Fairhaven Board of Selectmen

November 13, 2012 Meeting Minutes

Present: Selectman Chairman Brian Bowcock, Vice Chairman Charles Murphy, Clerk Robert Espindola, Executive Secretary Jeffrey Osuch and Administrative Assistant Anne Kakley.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:30 p.m.

MINUTES

- The Board voted to accept the minutes of the **October 29, 2012** meeting, **open** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board voted to accept the minutes of the **October 29, 2012** meeting, **executive** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board voted to accept the minutes of the **October 29, 2012** meeting, **emergency** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board voted to accept the minutes of the **October 30, 2012** meeting, **emergency** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Selectmen on the following meetings:

- Wednesday, **November 14** –
 - 12:00 p.m. – Manager's meeting in Dartmouth
- Thursday, **November 15** –
 - 7:30 – 9:00 a.m. – Forum meeting at the Quest Center
 - 1:30 p.m. – Meeting with Bob Winn at the BPW
 - 6:00 p.m. – New School Building Committee meeting
 - 7:00 p.m. – Finance Committee
- Friday, **November 16** –
 - 9:00 a.m. – Peter Cook – Life insurance
- Tuesday, **November 20** –
 - 10:00 a.m. – Job meeting at the Wood School
- Thursday, **November 22**–
 - Holiday – Thanksgiving – Town Hall closed
- Friday, **November 23** –

- Town Hall closed – Thanksgiving holiday
- Monday, **November 26** –
 - 8:30 a.m. – Retirement Board meeting

CHANGE ORDERS 1 AND 2 – NEW SCHOOL

The Board reviewed two change orders for the New Elementary School project. Mr. Osuch said that the change orders would have to be signed before proceeding with a requisition.

The first change order totaled \$182,886.00 (amount in addition to the \$500,000.00 bid allowance) and was necessary for the project to include windows from Modern Glass, the only bidder for windows in the project. Mr. Murphy motioned to authorize the chairman to sign Change Order 1 in the amount of \$182,886.00. Mr. Espindola seconded. Vote was unanimous. (3-0).

The second change order totaled \$21,630.12, and was needed for the removal of “unsuitable materials” in the southwest corner of the “B” building of the New Elementary School site. Mr. Murphy motioned to authorize the chairman to sign Change Order 2 in the amount of \$21,630.12. Mr. Espindola seconded. Vote was unanimous. (3-0).

NEW SCHOOL REQUISITION #5

The Board reviewed requisition 5 to CTA Construction for the New Elementary School project. Mr. Murphy motioned to approve the requisition in the amount of \$2,194,048.00. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOSASHIMIZU FLAG

The Board met with Michael Silvia, former Selectman and Town representative in a recent trip to Fairhaven’s sister city Tosashimizu.

Mr. Silvia recapped his trip, thanked the Board for the opportunity to represent Fairhaven, and presented the Board with the flag of Tosashimizu. Likewise, Mr. Silvia presented the Fairhaven Town flag to Tosashimizu. Mr. Silvia suggested flying the Tosashimizu flag under the Town flag at the October 2013 Manjiro festival, but thought also that the Town could find another place to keep the flag on display, like the Town Hall or library.

Mr. Silvia noted that Dr. Hinohara would like to keep going forward with a Cultural Center in Fairhaven, but donations for such a project have dropped off because of the recent, devastating tsunami in Japan. Mr. Silvia suggested that the Town could look into using CPC funds for the future of the project.

Mr. Silvia brought some tourism-related suggestions to the Board. He noted that, in Japan, Fairhaven is billed with equal footing to New York City and Boston, because of its connection to Manjiro Nakahama. Recently, a “Dreamliner” direct flight from Japan to the United States made

travel easier for Japanese tourists, and Mr. Silvia said that the Board should consider supporting the Manjiro-Whitfield Friendship Society (the Rooney family) in their mission to give support to Japanese tourists, because the task was daunting for one small group to do. Mr. Espindola asked if this was a task that could be charged to the Tourism Director, and Mr. Silvia suggested that the Town could reach out to the U Mass Dartmouth Center for Research to have a study done on Japanese tourism.

The Board thanked Mr. Silvia for his presentation.

E-PERMITTING LETTER OF SUPPORT

The Board then reviewed a suggested letter of support from Ross Perry of SRPEDD for a Community Innovation Challenge grant that would allow the Town to begin “e-permitting” (online-permitting) if approved. The Board had voted to authorize Mr. Perry to proceed with the paperwork at a previous meeting. The Board followed through with its support by voting to approve the letter of support for Mr. Perry to include in the CIC grant application. (See Attachment A). Mr. Murphy motioned to authorize the chairman to sign the letter of support for the grant. Mr. Espindola seconded. Vote was unanimous. (3-0).

TAX CLASSIFICATION HEARING

At 7:00 p.m., the Board held a public hearing with the Board of Assessors. Assessor Pam Davis, Assessor Chairman Ron Manzone and Administrative Assistant Pam Bettencourt were present to explain how they arrived at the Tax Classification for FY13.

The Assessors explained that Residential and Open Space property (R&O) had depreciated an average of 1.24 percent while Commercial, Industrial and Personal Property (CIP) had also depreciated an average of 3.24 percent. The Assessors said that FY13 would see a small rate increase in both the R&O and CIP rates.

Mr. Murphy asked the Assessors for a forecast into the future of property value. Ms. Davis explained that there would be a leveling off of values in the future. She said that in some more affluent towns, appreciation was actually occurring, while in economically depressed places like New Bedford and Fall River, depreciation was continuing.

Mr. Murphy motioned to adopt the 0.873650 as the residential factor to maintain the 1.75 CIP shift. Mr. Espindola seconded. Vote was unanimous. (3-0).

Ms. Bettencourt asked the Board to sign the paperwork in lieu of the Town Treasurer. They obliged. Likewise, she asked them to authorize her to use their signatures electronically for filing the paperwork. Mr. Murphy motioned to authorize Ms. Bettencourt to use the Selectmen’s signatures in filing electronically. Mr. Espindola seconded. Vote was unanimous. (3-0).

GNBRVT HIGH SCHOOL PROJECT

The Board met with several people from Greater New Bedford Regional Vocational Technical High School – including Superintendent Linda Enos, School Business Administrator Paula Gendreau, Fairhaven GNBVRVTHS Committee representative Randall Durrigan and CMS Project Manager Jim Byrne – to hear a proposal for a renovation/addition to the school. A presentation on the project was given by architect Cal Olson.

According to Ms. Enos, a letter of interest for the project was sent to the MSBA two years ago, and was approved on October 3, 2012, with an awarded grant in the amount of 80 percent reimbursement, which is the highest reimbursement rate allotted by MSBA. MSBA said the reason for the high allotment was the fact that GNBVRT has done an excellent job keeping the school well maintained.

The school was built in 1974-1975. Feasibility and schematics have been done for the expansion/renovation project, which would include 12-15 new classrooms, a cafeteria expansion and updated science labs. There would also be a “project center” for students to work on, and display, projects.

According to Ms. Enos, the project would also include new air handling units, as they need to be replaced regardless because they are original to the building. Estimates have indicated replacing the air handling units would cost \$2.9 million alone.

Ms. Enos explained that the school was not looking to expand for the sake of attracting more students, but to better serve the students the school already has. The project would also include a system to harvest rainwater and keep it on site. The project cost was estimated to total \$17.1 million and would begin in early summer 2013, to be finished in late 2014. The project would need the support of all three towns – Dartmouth, New Bedford and Fairhaven. So far, it has gotten approval from Dartmouth and New Bedford, and was reliant on Fairhaven’s Town Meeting approval to go forward with the project.

Mr. Espindola asked if the project could be piecemealed over several years by using “E&D” (excess and deficiency) funds for capital improvement. Ms. Gendreau explained that the school was at net school spending and depending on the E&D for other uses – it could not be used for a renovation/addition.

The Board reviewed a proposed authorized project budget and a debt assessment for Fairhaven. (See Attachment B).

The Board thanked the group for their presentation and confirmed that the presentation would also be given at the December 4, 2012 Special Town Meeting. Mr. Durrigan invited the public to attend an open house at GNBVRT on November 18.

KAREN ISHERWOOD

The Board was then approached by resident Karen Isherwood. Ms. Isherwood was not on the agenda. Ms. Isherwood said that she wanted to discuss the wind turbines. She said that the wind turbines were negatively impacting her family and she claimed that the noise from the turbines

were keeping her from sleeping. She said that she held Dr. Bowcock responsible because he signed the contract for the turbines. She asked if he was going to buy her house or turn off the turbines at night.

Dr. Bowcock said that the Town could not address the topic until the sound study was completed and returned from the Massachusetts DEP.

PARK AVE TREE HEARING

At 8:00 p.m., the Board conducted a public hearing for a tree removal at Park Avenue. Bill Roth was present to explain the tree removal, which is part of a Block Grant project. He said that abutters had been informed about the tree removal, which was essential because the existing trees are lifting up the sidewalk with their root systems. In addition, the public hearing was advertised and the trees were posted for removal. The project will involve removing five trees and replanting nine trees, which will include canopy and ornamental trees.

Mr. Murphy motioned to approve the tree removal as a part of the Block Grant construction project. Mr. Espindola seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMIT

The Board reviewed an NSTAR gas permit for 5 Washburn Ave between Farmfield and Cedar Streets (previously approved by the BPW). Mr. Murphy motioned to approve the gas permit. Mr. Espindola seconded. Vote was unanimous. (3-0).

DOG PARK COMMITTEE APPOINTMENTS

The Board reviewed letters of interest from Kevin Viveiros, Melissa Tavares and Richard Ciccone for appointment to the Dog Park Committee. Mr. Murphy motioned to approve the appointments to the Dog Park Committee. Mr. Espindola seconded. Vote was unanimous. (3-0).

The Board did note that they would like to speak to the Animal Control Officer, Cat Mindlin, about setting a limit on the number of people appointed to the Dog Park Committee.

MASSACHUSETTS CULTURAL COUNCIL

The Board read correspondence from the Massachusetts Cultural Council, requesting paperwork to allow the Town to receive Cultural Council funding for FY13. Mr. Murphy motioned to sign the document to allow Fairhaven Cultural Council to continue to receive funding. Mr. Espindola seconded. Vote was unanimous. (3-0). Additionally, Mr. Murphy motioned to make the Executive Secretary the signatory for Cultural Council funding. Mr. Espindola seconded. Vote was unanimous. (3-0).

TAX TITLE

The Board reviewed a letter from the U.S. Department of Justice regarding the status of a parcel of land, currently in the state of Tax Title, owned by the Hathaway-Braleley Wharf Company. In March 2008, the Town started the process of taking possession of the parcel, known as Assessor's Map 6, Lot 46. The lot in question requires paperwork filing with the EPA and related title work at a considerable expense. Mr. Osuch recommended that the Board consider halting the Tax Title process to prevent the Town from incurring the costs associated with the parcel, which used to be a dumping site. Mr. Osuch also suggested that the Board leave the matter for Town Counsel to handle with the Department of Justice, as the most recent letter was addressed to him.

Mr. Murphy motioned to have Town Counsel Tom Crotty respond to the letter (see Attachment C). Mr. Espindola seconded. Vote was unanimous. (3-0).

HURRICANE PREPAREDNESS

The Board reviewed the recent emergency response to Hurricane Sandy, which came close to Fairhaven on October 29, 2012. The Board discussed possible improvements to their emergency response protocol. Mr. Espindola suggested that the Board hold another meeting soon to make sure that the suggested changes are integrated into the Hurricane Preparedness manual now, while the matter is fresh in everyone's mind. The Board agreed. Among the suggestions were defining responsibilities better and creating a liaison with NSTAR.

Marc Jodoin and John Rogers of the EMA were also present to give their opinions on the response to the storm. Mr. Jodoin said that he thought the Town should have enacted an Emergency Operations Center (EOC) and Mr. Rogers said that the Town needs to purchase more cots for emergency preparedness. He said that the Town only has eight cots and needs more. They may be able to get some cots from the proceeds of the Father's Day Road Race and from Southern Mass Credit Union, and West Island Improvement Center, but more will be needed, said Mr. Rogers.

BPW ARTICLES ON STM

The Board met with Vinnie Furtado and Linda Schick to discuss BPW articles placed on the Special Town Meeting warrant.

Mr. Furtado explained that the BPW had submitted one article in two parts to reflect a settlement with the Sewer Union for a one percent raise in FY12 and FY13.

Another article asked for \$196,000.00 as a part of the settlement with WES Construction for the Digester. Ms. Schick said that the Digester was now working and producing methane and that the Town would start seeing savings as a result. The article in question will harness some of the balance left from a \$500,000.00 appropriation from a Special Town Meeting BPW solar project article from May 2009.

STM RECOMMENDATIONS

The Board reviewed a draft copy of the STM and gave their recommendations.

- **Article 1A** – A transfer of \$25,000 for the Treasurer’s Office to cover unforeseen expenses in Mr. Nunes’ payout. Mr. Murphy motioned to recommend a transfer of \$25,000 from Surplus Revenue. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 1B** – A transfer of \$6,000.00 for the Highway Department for Purchase of Services. Mr. Murphy motioned to recommend a transfer of \$6,000.00 from Surplus Revenue. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 1C** - A transfer of \$2,000.00 for the Conservation Commission to pay for a secretary. Mr. Osuch said that there was a possibility that the article would be withdrawn. Mr. Murphy motioned to make a recommendation at Town Meeting. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 2** – A transfer of \$6,864.00 from Sewer Retained Earnings for the Sewer Union Contract settlement in FY12. Mr. Murphy motioned to recommend a transfer of \$6,864.00 from Sewer Retained Earnings. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 3** – A transfer of \$14,915.00 from Sewer Retained Earnings for the Sewer Union Contract settlement in FY13. Mr. Murphy motioned to recommend a transfer of \$14,915.00 from Sewer Retained Earnings. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 4** – Bills of Prior Year. Mr. Murphy motioned to recommend the payment of \$57.25 for the Fire Department from Surplus Revenue. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 5** – An article for the renovation and expansion of Greater New Bedford Regional Vocational Technical High School. Mr. Murphy motioned to recommend Adoption. Mr. Espindola seconded. Vote was unanimous.
- **Article 6** – \$196,000.00 to settle on the Digester with WES Construction. Mr. Murphy motioned to recommend a transfer of \$196,000.00 from Article 10 of the May 2, 2009 Special Town Meeting. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 7** – Sewer Betterment transfers. Mr. Murphy motioned to recommend a transfer of \$2,140.93 to the Nancy Street Sewer Betterment account; \$90,916.17 to the Sciticut Neck Sewer Betterment account; and \$31,568.88 to the West Island Sewer Betterment account. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 8A and 8B** – Street Acceptance for North Street. Mr. Murphy motioned to recommend Adoption on Article 8A. Mr. Espindola seconded. Vote was unanimous. (3-0). Mr. Murphy motioned to recommend Adoption on 8B. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 9** – Union Wharf Repairs – The request of \$3,600.00 would stabilize the former MacLean Seafood building and allow some repairs. Mr. Murphy motioned to recommend a transfer of \$3,600.00 from Surplus Revenue. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 10** – Fund Overlay Surplus. Dr. Bowcock explained that the submitted article was the result of the Town expending Overlay Account money at Town Meeting in 2008. There was a court case from Verizon against several municipalities in the Commonwealth and Verizon won the case. The transfer would offset the expenses incurred by the case in

FY09. Mr. Murphy motioned to recommend a transfer of \$85,000.00. Mr. Espindola seconded. Vote was unanimous. (3-0).

- **Article 11** – Job amendment for the Town Treasurer. The Town was still awaiting a report from the DOR on how the Treasurer’s Office should be structured. By Town Meeting, the article will be better defined. The article was written by Town Counsel, Mr. Osuch said. Mr. Murphy motioned to recommend Adoption. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 12** – Elliot Lane Street Light. Mr. Murphy motioned to recommend Adoption. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 13** – Capital Project Balance Request for Authorization. This article would transfer leftover borrowed balances from the High School project and the East Fairhaven Elementary School project. Both sums would come from bonded money that can only be used for a similar project. Mr. Murphy motioned to recommend Adoption. Mr. Espindola seconded. Vote was unanimous. (3-0).
- **Article 14** – The Board recommended putting an article on the STM warrant for the EMA to receive cots for Emergency Shelter use. Mr. Murphy motioned to recommend \$1,500.00 for the purchase of 30 cots. Mr. Espindola seconded. Vote was unanimous. (3-0).

MOSQUITO CONTROL PROJECT SUPPORT

The Board reviewed a request from the Bristol County Mosquito Control project asking for an “SRB-3 form” letter of support for FY13. The Board said that the project was important and Mr. Murphy motioned to sign the form. Mr. Espindola seconded. Vote was unanimous. (3-0).

FINCOM APPOINTMENT

The Board reviewed a letter from Phil Washko asking to be appointed to an “at-large” seat on the Finance Committee. Dr. Bowcock said that he would have to set up a time with the FinCom chairman and the Town Moderator to make an appointment. Besides Mr. Washko, Kaisa Holloway Cripps was also interested in the seat.

OFFICER RETIREMENT

The Board reviewed a retirement notification from Officer David Correia giving a retirement date of October 29, 2014. The Board thanked him for the letter.

ADAMS ST SAFETY REVIEW

The Board received a letter from MassDOT regarding a request from the Board for a safety review of Adams Street after a Middle School student was struck and injured by a car in that area early in the school year. MassDOT said that they would look into the safety of the area and would make changes as needed. MassDOT invited the Town to give further feedback if it still was not satisfied with the safety of the area in question.

CIVIL SERVICE REQUEST

The Board received a request from Police Chief Michael Myers asking for the Selectmen to call for the police officer hire list from the Civil Service. Mr. Murphy motioned to call for the hire list as requested. Before seconding the motion, Mr. Espindola said he wanted to look into the ratio currently used to staff the Police Department and crime statistics to determine whether or not the Police Department needed further staffing. Dr. Bowcock said that he would discuss the matter of Police staffing further in Executive Session. Mr. Osuch pointed out that the Civil Service list could be obtained with no obligation for the Board to use it. With that, Mr. Espindola seconded Mr. Murphy's motion. Vote was unanimous. (3-0).

UNION WHARF LIST

The Board reviewed a list from Harbormaster David Darmofal on outstanding balances from Union Wharf (see Attachment D). Mr. Darmofal asked a certain list of vessels to be charged off as "uncollectible" as the owners cannot be reached. Mr. Murphy motioned to charge off the list as defined in the first page of Attachment D as "uncollectible". Mr. Espindola seconded. Vote was unanimous. (3-0). Dr. Bowcock said that he would assist Mr. Darmofal in taking the people on the second page of Attachment D to small claims court.

MIDDLE ST NO PARKING SIGN REQUEST

The Board reviewed a memo from Town Planner Bill Roth asking them to consider the placement of a "No Parking" sign at 86 Middle Street, in front of Jerry's Auto, as requested by Jerry Bettencourt, the owner of the aforementioned business. Mr. Roth said that the sign would clear up any confusion about the small space, which is not adequate for parking, and that Mr. Bettencourt had offered to pay for the sign. Mr. Murphy motioned to approve the sign with Mr. Bettencourt paying for the cost. Mr. Espindola seconded. Vote was unanimous. (3-0).

OTHER BUSINESS

In other business:

- Mr. Murphy said that he received a call from a resident about the safety of the Animal Control Officer's vehicle. He said that he would like the Board to review the matter and possibly invite the ACO to a future meeting.
- Mr. Murphy said that he went to the premiere of Fairhaven: the Movie and enjoyed it, but he reminded residents interested in watching the movie that it is rated PG-13/R.
- Mr. Espindola commended everyone involved in the Veteran's Day events, including the parade and the COA Veterans' luncheon.
- Mr. Espindola reminded the public that Rocky's Ace Hardware would be having a ribbon cutting ceremony on November 17.
- Mr. Espindola recommended that the Board should allow residents to attend the next meeting to discuss the wind turbines.

POSTING OF WARRANT

Mr. Murphy motioned to sign and post the Special Town Meeting warrant. Mr. Espindola seconded. Vote was unanimous. (3-0).

At 9:51 p.m., Mr. Murphy motioned to enter Executive Session to discuss life insurance, Police officer personnel, union negotiations, setting the salary for the acting Treasurer, and review of the Personnel Bylaws. 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 11/26/2012)

Community Innovation Challenge Grant

APPLICATION

LOCAL SUPPORT DOCUMENTATION FORM

Project Title: Southeast e-Government Collaborative (SeGC)
e-Permit Expansion

Lead applicant primary contact:

First Name, Last Name: Ross Perry

Name of Municipality, School, RPA or COG:
Southeastern Regional Planning & Economic Development District

Phone Number: 508-824-1367

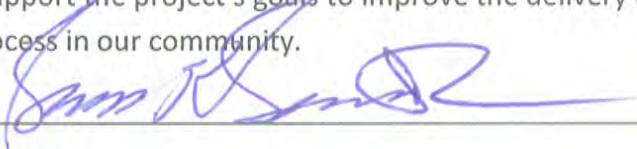
Email Address: rperry@srpedd.org

List all participating entities:

- North Attleborough
- Seekonk
- Fairhaven
- Marion
- Fall River
- SRPEDD
- Other SRPEDD Communities that join after the grant submission date.

I am signing this Local Support Document in my official capacity as {Selectmen Chair, Building Commissioner, Health Dept official, Fire Chief } as an indication of {town, department, }'s desire to participate in a regional acquisition of an online / electronic permitting solution for our town and my departments.

I support the project's goals to improve the delivery of, and public access, to the permitting process in our community.



Signature

Brian K. Bowcock

Print Name _____

Town of Fairhaven

Entity

Selectmen Chair

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Signature 

Entity
Fairhaven Board of Health, Chairman

Print Name Peter DeTerra

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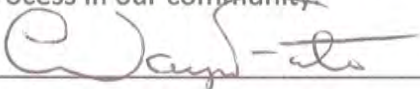
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Signature Wayne Fostin

Fairhaven Building Commissioner

Entity

Print Name _____

GREATER NEW BEDFORD REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL	
MASSACHUSETTS SCHOOL BUILDING AUTHORITY - AUTHORIZED PROJECT BUDGET	
Total Project Budget	\$ 17,099,808
Total Potentially Eligible Contingency	\$ 1,009,461
Project Budget	\$ 16,090,347
Scope of Items Excluded or Otherwise Ineligible	\$ (169,908)
Estimated Basis of Total Facilities Grant Reimbursement Rate	\$ 15,920,439 80%
Estimated Maximum Total Facilities Grant	\$ 12,736,352
Total Project Budget	\$ 17,099,808
Less Maximum Total Facilities Grant	\$ 12,736,352
Equals Cost to District Members	\$ 4,363,456

Fairhaven - Current Debt 2003 - 2013							
Total Debt	\$	3,515,750		Fairhaven			
Year	Total		Fairhaven	Fairhaven		Fairhaven's Other Spending Total Assessment	
	Current Debt 2003-2013	2003-2013	Student Ratio	Other Spending/ Transportation/ Capital	Fairhaven Debt Assessment 2003-2013		Percent of Total (Debt)
2003	\$	46,625	8.9	77,089	\$ 4,150	0.51%	\$ 81,239
2004	\$	543,250	10.1	75,261	\$ 54,868	5.1%	\$ 130,129
2005	\$	509,250	11.0	85,771	\$ 56,017	42.2%	\$ 141,788
2006	\$	423,625	11.2	94,587	\$ 47,446	39.5%	\$ 142,033
2007	\$	413,125	11.8	118,934	\$ 48,749	33.4%	\$ 167,683
2008	\$	402,625	11.3	76,388	\$ 45,497	29.1%	\$ 121,885
2009	\$	391,250	12.6	48,272	\$ 49,297	37.3%	\$ 97,569
2010	\$	279,000	12.5	82,440	\$ 34,875	50.5%	\$ 117,315
2011	\$	269,000	11.4	112,167	\$ 30,666	29.7%	\$ 142,833
2012	\$	134,000	11.5	118,069	\$ 15,410	21.5%	\$ 133,479
2013	\$	104,000	9.9	92,667	\$ 10,296	11.5%	\$ 102,963
2014	\$	-					
Totals	\$	3,515,750			\$ 397,271		

15 YEAR		Estimated Principal and Interest for Fairhaven's Debt Assessment									
Actual Principal Amounts		Cost to District		Fairhaven's		Fairhaven's		Fairhaven's		Fairhaven's	
Total Project	Total MSBA	Total (Est.)	Proposed Debt	Estimated Student	Enrollment Ratio	Using Prior 3 yr.	Estimated Debt	Total	Other Spending	Total (Est.)	Assessment
Budget	Grant Amount	Members	Estimated	2014 - 2030	Average	2014-2030	2014-2030	Debt	Assessment	2014-2030	
\$17,099,808	12,736,352	\$4,363,456									
	\$ 5,818,590										
Two years/short term interest	2014 \$	8,250	9.9%	\$107,634	817	0.8%	\$ 108,451				
	2015 \$	59,931	9.9%	\$107,634	5,933	5.2%	\$ 113,567				
	2016 \$	384,672	9.9%	\$107,634	38,083	26.1%	\$ 145,717				
	2017 \$	381,750	9.9%	\$107,634	37,793	26.0%	\$ 145,427				
	2018 \$	384,700	9.9%	\$107,634	38,085	26.1%	\$ 145,719				
	2019 \$	382,350	9.9%	\$107,634	37,853	26.0%	\$ 145,487				
	2020 \$	384,850	9.9%	\$107,634	38,100	26.1%	\$ 145,734				
	2021 \$	381,400	9.9%	\$107,634	37,759	26.0%	\$ 145,393				
	2022 \$	382,788	9.9%	\$107,634	37,896	26.0%	\$ 145,530				
	2023 \$	383,850	9.9%	\$107,634	38,001	26.1%	\$ 145,635				
	2024 \$	384,231	9.9%	\$107,634	38,039	26.1%	\$ 145,673				
	2025 \$	383,906	9.9%	\$107,634	38,007	26.1%	\$ 145,641				
	2026 \$	382,469	9.9%	\$107,634	37,864	26.0%	\$ 145,498				
	2027 \$	380,654	9.9%	\$107,634	37,685	25.9%	\$ 145,319				
	2028 \$	383,063	9.9%	\$107,634	37,923	26.1%	\$ 145,557				
	2029 \$	384,463	9.9%	\$107,634	38,062	26.1%	\$ 145,696				
	2030 \$	385,263	9.9%	\$107,634	38,141	26.2%	\$ 145,775				
	2031 \$	-					\$ -				
	\$ 5,818,590				\$ 576,040		\$ -				



U.S. Department of Justice

Environment and Natural Resources Division

Boston Field Office
 Environmental Enforcement Section
 One Gateway Center
 Suite 616
 Newton, MA 02458

Telephone (617) 450-0442
 Facsimile (617) 450-0448

October 31, 2012

VIA EMAIL AND FIRST-CLASS MAIL

Thomas P. Crotty
 Thomas P. Crotty and Associates
 388 County Street
 New Bedford, MA 02740

Re: Atlas Tack Corporation Superfund Site:
Property Owned by Hathaway-Braleley Wharf Company, Inc.

Dear Tom:

As we discussed a few weeks ago, I am writing to you, in your capacity as counsel for the Town of Fairhaven ("Town"), in connection with an approximately 6-acre parcel of land owned by the Hathaway-Braleley Wharf Company, Inc. ("HB") located in the Town, which is known as Assessor's Map 6, Lot 46 (the "HB Property").^{1/} In 2004, the United States District Court for the District of Massachusetts approved a consent decree entered into by the Commonwealth, EPA and HB in connection with the Atlas Tack Corporation Superfund Site ("Site"). United States v. Hathaway-Braleley Wharf Co., No. 03 CV 11259 WGY ("HB Decree"). (A copy of the HB Decree is enclosed.) Under the HB Decree, HB was required to record an Environmental Restriction and Easement ("ERE") as well as a Conservation Easement and Restriction ("CER") with respect to the HB Property. HB Decree ¶¶ 12 and 38. After recording the ERE and CER, HB was required to make best efforts to transfer the HB Property, for no consideration, to a governmental body or charitable corporation or trust whose purposes include conservation of land or water areas or the Property in particular. HB Decree ¶ 13. HB was also required to pay all real estate taxes on the HB Property in a timely manner until it transferred the property. Id. HB has consistently expressed its willingness to record the easements (and to convey the property for conservation), but nevertheless has failed to complete the title work necessary to record the ERE or the CER, to transfer the property to a conservation trustee, or to timely pay its real estate taxes. It appears that HB is currently defunct with little or no remaining assets.

We recently learned that the Town, on March 13, 2008, took the HB Property, in a tax taking, for the failure to pay 2006 real estate taxes. See Book 8988, page 24 (copy enclosed). As noted above, we have had difficulty getting HB to record the ERE and the CER. In view of this difficulty, we were wondering if the Town, at this point in time, would have the authority to record the ERE and CER, due to having taken the HB Property for tax purposes. In the alternative, if the Town does not currently have the authority to record the easements, it

^{1/} The HB Property comprises two parcels of approximately three acres each separated by the hurricane barrier, which is owned by the Town.

presumably would have such authority if it goes ahead and files a motion to foreclose the right of redemption with respect to the HB Property and, as a result, becomes the outright owner of the HB Property with no contingent rights of redemption. Under this scenario, after foreclosing the right of redemption, the Town could either continue to own the HB Property or transfer it to an environmental organization. We note, as discussed above, that the Town already owns the parcel (hurricane dike) that divides the two portions of the HB Property. We recognize that foreclosing the right of redemption with respect to the HB Property would probably not ultimately result in any revenue coming into the Town, due to the restrictions that have to be placed on the HB Property. But foreclosing the right of redemption, and thereafter recording the easements, would seem to be consistent with the Town's interests generally in protecting and preserving property in Fairhaven for conservation purposes, thereby benefitting the Town and the public generally.

Another alternative to filing a petition to foreclose the right of redemption would be to have HB simply transfer title to the HB Property to the Town, in order to fulfill its transfer obligations under the HB Decree (after which the Town could record the easements).

The ERE that we seek to record is necessary to ensure the ongoing integrity of the remedial action at the Site and to ensure that the Site remains protective of human health and the environment. The CER will preserve the property in its natural state for the benefit of all Town residents. We believe that HB has always been amenable to recording the easements and to transferring title to the property to be held in perpetuity for conservation. Thus, the obstacles here largely concern the "mechanics" at this point for HB to properly execute the documents, rather than any opposition to granting the easements themselves. We hope that the Town would be willing to explore the feasibility of providing some assistance to EPA and the Commonwealth in this matter insofar it might be in a position to provide an efficient and practical solution to these practical problems.

Irrespective of the extent to which the Town may be able to assist and become involved at this time, we would nevertheless need to discuss how the Town would otherwise plan to proceed with respect to the Property. Of course, we do not want to be in a position where we finally get HB to record the ERE and CER, only to have the Town subsequently foreclose the right of redemption and somehow have a negative impact on the restrictive easements. (I have not researched the issue, but believe that the easements might not be undermined by such a foreclosure by the Town.)

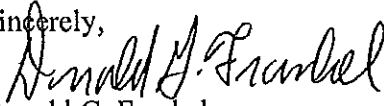
Finally, I would like to update you concerning the status of the consent decree that the Town is a party to in connection with the Site, i.e., the decree entered into by EPA, Atlas Tack Corporation, M. Leonard Lewis, and the Town, approved by United States District Court for the District of Massachusetts in 2006. United States v. Atlas Tack Corp. et al., No. 03 CV 11601 WGY ("Atlas Decree"). Under the Atlas Decree, Atlas Tack, with respect to the approximately 22-acres of property it owns ("Atlas Property"),² is required, after receiving a notice from EPA, to make an election to either sell the property and to pay certain proceeds of the sale to EPA (under Paragraph 12 of the Atlas Decree) or to retain the property and make a payment to EPA based on the appraised value of the Atlas Property minus certain amounts (under Paragraph 13 of the Atlas Decree). Under the Atlas Decree, after Atlas Tack either sells the Atlas Property under Paragraph 12, or makes a payment to EPA based on Paragraph 13, the Town is required to make a payment to EPA equal to the accrued real estate taxes on the Atlas Property paid to the Town by Atlas Tack minus \$80,000 plus interest. Atlas Decree ¶¶ 18-19. Please be advised that EPA has not yet notified Atlas Tack that it must elect between the procedures of Paragraph 12 or Paragraph 13, even though the Remedial Action is now Operational and Functional (see Atlas Decree ¶ 10), because Atlas Tack has not yet recorded a restrictive easement on the Atlas Property, as required by Paragraph 49 of the Atlas Decree (we had expected this restrictive

² The Atlas Property includes Assessor's Map 8 - Lot 94, Map 27,- Lot 15, Map 27 - Lot 15D, Map 27 - Lot 16, and Map 27,- Lot 7.

easement to be recorded long before the Remedial Action was Operational and Functional). We anticipate that once the restrictive easement is recorded, EPA will notify Atlas of its obligation to make the election and, at that time, the Town's obligations to make certain payments to EPA (from the proceeds of tax payments made by Atlas Tack) will be triggered.

I look forward to discussing this matter with you at your earliest convenience.

Sincerely,



Donald G. Frankel
Trial Attorney

cc: Ronald Gonzalez, EPA
Lucas Rogers, DEP



Town of Fairhaven
Massachusetts
Office of the Harbormaster
40 Centre Street, Fairhaven, MA 02719

Board of Selectmen

October 12, 2012

Town of Fairhaven
40 Center St.
Fairhaven, MA 02719

Subject: Union Wharf Large Fishing Vessels

Gentlemen,

As Harbormaster for our Town, I have been charged with keeping track of the Fishing Vessels that use the docks at Union Wharf. On a daily basis I go down to the dock and log each vessel at the docks. When the end of the month comes around I turn in to the Selectmen's Office the tally sheet. They then send out billing statements to the boats that used the docks for that month using the tally sheet information as a basis to charge.

At the end of every quarter, I receive a list of outstanding balances and make an effort to remind the clearing houses they owe for dockage. This has been a frustrating experience at best with many vessels leaving and not paying. Efforts to collect have been difficult due to transfer of ownership and boats leaving the area.

We have in my opinion made some headway in the process to date but not enough. Because of the reality of the situation and several discussions with the Commonwealth of Mass Auditors, our Treasurer and Executive Secretary I have concluded that several of the vessels that owe this town money need to be "Charged Off" the books as uncollectable. Amounts stated are after any deposits on hand have been used to offset the amount owed.

Vessels that I recommend to be "Charged off" as **uncollectable** are as follows:

Name of Vessel	Amount Charged Off	Date last used
F/V Den Marc	\$100.00	5/16/2003
F/V Destiny	\$60.00	5/16/2003
F/V Elizabeth	\$80.00	8/21/2003
F/V Invincible	\$40.00	5/16/2003
F/V Midnight Rider	\$170.00	6/12/2006
F/V Rianda (Vessel Sunk)	\$120.00	4/1/2009
F/V Odyssey	\$360.00	5/11/2005
F/V Predator	\$20.00	1/30/2004
F/V Rianda II	\$880.00	8/3/2006
F/V Samia	\$320.00	9/17/2004
F/V Two Dregs	\$2,040.00	10/9/2003

(Previous court action taken on Two Dregs without success)

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 2012 OCT 12 AM 11:11
 TOWN OF FAIRHAVEN
 EXECUTIVE SECRETARY

We would also ask your board to authorize those deposits on hand for the following vessel be used to offset balances owed and that the Town of Fairhaven seek the remaining balances owed through court action and or any other actions that may be lawfully used to collect said balances.

If you with this action we would ask that the Towns Legal Counsel be authorized to advise us and take any action required of them to proceed with any actions taken. In addition we request that any fees or expenses for this action be paid for by the town as this Department does not have any money to do so in our budget.

Please understand that in our opinion there is some possibility to collect money owed on these vessels as opposed to those being charged off. Therefore we are requesting action to collect be undertaken.

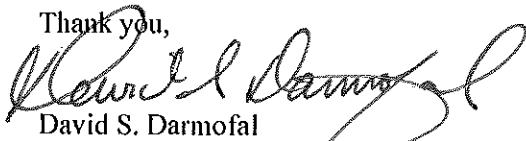
Vessels to be considered for the above mentioned action are as follows:

F/V Jacob Allen	\$2,680.00	2/22/2010
F/V Bookie	\$ 0.00	11/16/2009
(Balance owed after deposit used to offset)		
F/V Lilly M	\$160.00	4/18/2008
F/V Mama's Pride	\$710.00	10/5/2007
F/V Resolute	\$ 0.00	6/17/2008
(Balance owed after deposit used to offset)		
F/V Fairtide	\$170.00	3/22/2005

I would respectfully request this issue if you agree meets the standards for an "Executive Session" is held in Executive Session. My reasoning is the court action being requested.

I will be available to meet with you as of November 19, 2012 as I will be on vacation until then. However, if you have any questions before then, please contact me on my cell at 508 951-3576 or if feel my attendance is not required please take any action you deem appropriate . (Not to say my approval is required, that's not my intention)

Thank you,



David S. Darmofal
Harbormaster, Fairhaven, MA

cc: Tim Cox
J. Osuch