



Fairhaven Board of Selectmen

November 26, 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 **November 13, 2012** meeting, **open** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

After the approval of the open session minutes, Mr. Espindola asked to speak. He said he wanted to appeal to Mr. Murphy about the possibility of placing a discussion on the wind turbines on the next Selectmen's agenda. He said that he knew the Chairman did not want to place the topic on the agenda until the DEP sound study was complete, but Mr. Espindola said that he wanted to open up the topic before then because the DEP report was six months along with no definite end in sight. He said he wanted to hear Mr. Murphy's opinion on the matter.

Chairman Bowcock said that Laurel Carlson of the DEP had stated in the beginning that the study could take six months. He said that he thought the findings of the study would be apparent in "the near future".

Mr. Murphy said that, according to the Attorney General's office, the Chairman sets the agenda, but that he did think that people should have the opportunity to be heard, even when the Board cannot resolve their problems. Mr. Espindola asked Mr. Murphy if he would have any issue with people speaking about wind turbines at the next meeting. Mr. Murphy said that he would have no issue with this as long as everyone is respectful. Chairman Bowcock asked Mr. Espindola if he would like to follow through on his suggestion to set a time limit for the agenda item. Mr. Espindola said that he would consider a time limit so the matter would not dominate the meeting. Chairman Bowcock said that he would look at the upcoming schedule to consider placing wind turbines on the agenda.

- The Board voted to accept the minutes of the **November 13, 2012** meeting, **executive** 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:

- Tuesday, **November 27** –
 - 11:00 a.m. – New School Job Meeting
 - 1:30 p.m. – Economic Summit Meeting – Town Hall
 - 3:00 p.m. – Color Selection Meeting at the New School
- Wednesday, **November 28**–
 - 9:00 a.m. – BBAC Meeting – Wareham
- Tuesday, **December 4** –
 - 10:00 a.m. – New School Job Meeting
 - 6:00 p.m. – Selectmen Meeting at Hastings Middle School
 - 7:00 p.m. – Special Town Meeting at Hastings Middle School
- Thursday, **December 6** –
 - 7:30 a.m. to 9:00 a.m. – Forum at the Quest Center

Mr. Osuch said that the New School was progressing well, with all structural steel in place and roof construction and masonry scheduled for the following week.

HOLIDAY HOURS – TOWN HALL

Mr. Osuch said that, due to a provision in their contract, the clerical union would receive a full day off instead of a half-day on Monday, December 24 and Monday, December 31, because both Christmas and New Year's would fall on Tuesdays this year. He said that the non-union workers were asking if the Town Hall would be open on December 24 and 31 as a result.

Mr. Osuch said that the last time the holidays fell on Tuesday, the Board opted to close the Town Hall. Mr. Murphy said that there would probably not be too many people seeking Town Hall services on Christmas Eve and New Year's Eve, and Mr. Espindola concurred. Mr. Murphy motioned to close the Town Hall on December 24 and 31. Mr. Espindola seconded. Vote was unanimous. (3-0).

UPCOMING SELECTMEN MEETINGS

The Board set the schedule for the upcoming Selectmen's meetings. The schedule was set for December 4, 17 and 27, 2012; January 7 and 22, 2013; February 4 and 19, 2013; and March 4 and 18, 2013.

LICENSE RENEWALS

The Board voted to renew Common Victualer licenses for the following establishments: Brady's Ice Box, Burger King, China Café, Dunkin Donuts at 27 Alden Road, Dunkin Donuts at 32 Howland Road, Friendly's Ice Cream, Golden Chopsticks Chinese Restaurant, Margaret's, Pumpnickel's, Papa Gino's, 7-Eleven, Simmy's Restaurant, Vivvy's Restaurant, and Wendy's Restaurant.

Mr. Murphy motioned to renew the Common Victualer licenses for all the aforementioned establishments. Mr. Espindola seconded. Vote was unanimous. (3-0).

CIVIL SERVICE REQUEST CHANGE

In a memo, Police Chief Michael Myers informed the Board that there would be one additional vacancy to fill on the Police department, because one of the previously selected candidates was removed from the Police Academy. As such, Chief Myers requested that the Board increase its previously approved Civil Service Request from one vacancy to two. Mr. Murphy motioned to increase their Civil Service Request from one candidate to two. Mr. Espindola seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMITS

The Board reviewed an NSTAR gas permit for 78 Hedge Street between Main and Adams Streets (previously approved by the BPW). Mr. Murphy motioned to approve the gas permit. Mr. Espindola seconded. Vote was unanimous. (3-0).

The Board reviewed an NSTAR gas permit for 3 Reynolds Street between Green and Fort Streets (previously approved by the BPW). Mr. Murphy motioned to approve the gas permit. Mr. Espindola seconded. Vote was unanimous. (3-0).

VOTE CERTIFICATES FOR NOVEMBER 6 ELECTION

The Board voted to approve and sign the Bristol County Commissioners. See Attachment A for totals. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0). The Board signed the Certificates.

PLANNING BOARD VACANCIES

The Board met with Town Planner Bill Roth to hear about two Planning Board vacancies. The first was a vacancy made with the resignation of Al Borges from the Planning Board after over 50 years of service. The Planning Board accepted Mr. Borges' resignation. Another potential vacancy was declared with Joe Morra's residency status being challenged by Planning Board Chairman Wayne Hayward. The Planning Board will be declaring another vacancy with Mr. Morra's removal at an upcoming meeting. Mr. Roth said that Mr. Morra's term is until April 2014 and Mr. Borges' term is until April 2015.

Mr. Roth said that the Planning Board advertised the vacancies in the newspaper and that letters of interest must be received by the Selectmen's Office by December 7, 2012 by noon. The Board of Selectmen agreed to schedule a joint meeting with the Planning Board on December 17 to make the two appointments. The appointments will be made based on a simple majority of the Planning Board and Board of Selectmen combined.

NORTH STREET ACCEPTANCE HEARING

The Chairman opened a public hearing for the taking of North Street.

Town Planner Bill Roth explained that the acceptance was necessary because, despite the fact that North Street is one of the oldest streets in Town and sees a considerable amount of traffic, but it has never actually been accepted as a public right of way by the Town. As such, the Town could not plan repairs or projects on North Street until it was accepted. Mr. Roth explained that there were no plans to alter the street in any way with the street acceptance.

Mr. Espindola asked if the street acceptance would affect public water access at the end of Cherry Street. Mr. Roth said that the hearing was only for a street acceptance and that no water access would be affected.

North Street resident Louis Roy asked if there were any plans to make improvements to North Street. Mr. Roth said that the hearing was for the street acceptance only and that there were no plans currently to do any work to the road.

Mr. Murphy expressed approval for the acceptance. Mr. Espindola said that he wanted the acceptance to be reviewed by Town Counsel before proceeding. Mr. Roth said that there was no need to have Town Counsel review it because the street acceptance was a completely independent action from the water access. Mr. Murphy motioned to approve the street acceptance. Mr. Espindola seconded. Vote was unanimous. (3-0).

Mr. Espindola asked if the matter of unaccepted roadway would come up again. He asked Mr. Roth if he could arrange to have an inventory of all roads in town. Mr. Roth said that the Town Clerk has a detailed book on roadways. He said it was unlikely that another old street in Town like North Street would need acceptance.

VIETNAM MOVING WALL COLLAGE

At 7:16 p.m., the Board met with Gerry Payette and other members of the Vietnam Moving Wall committee, which organized to bring a scaled down version of the Vietnam Memorial Wall to Cushman Park in July 2012 as a part of the Bicentennial celebration.

Mr. Payette took a moment to reflect on the July event, and thanked everyone involved in making the Vietnam Moving Wall event such a success. Mr. Payette said that photographer Jim Mahaney had taken a series of photographs of the Vietnam Moving Wall, including the names of Fairhaven residents who died in Vietnam, and Mr. Payette presented a collage of those photos to the Board

The Board praised Mr. Payette and the group's work in bringing the Vietnam Moving Wall to Fairhaven. The Chairman also thanked several of the group members for their work in bringing Father's Day Road Race funds to various Town departments.

TREE WARDEN WATER ABATEMENT

The Board met with Tree Warden Tony Medeiros to hear a request for a water/sewer bill abatement.

Mr. Medeiros told the Board that his most recent bill reflected a \$115 increase because of the water he used to keep cherry trees alive until the Town could find a place to plant them. The cherry trees were donated by Japanese benefactor Dr. Hinohara.

Chairman Bowcock said that the Board of Selectmen were not water commissioners and could not authorize an abatement. He did say that the Board could submit a letter of support to the Board of Public Works for the abatement. Mr. Medeiros said that this was what the BPW had suggested to him as well. He said that his bill was due by the following Monday, so he wanted the issue resolved as soon as possible.

Mr. Murphy motioned to send a letter to the BPW, supporting the \$115 water/sewer bill abatement. Mr. Espindola seconded. Vote was unanimous. (3-0).

SOLAR POWER PROJECT UPDATE

The Board met with Jack Eggelston of Blue Sky Power and Greg Boyer of Dynamic Solar to discuss the progress on the landfill solar project.

The project was a little ahead of schedule despite Hurricane Sandy. NSTAR connections have been delayed slightly because of Hurricane Sandy, but according to Mr. Boyer, NSTAR was scheduled to work on the project the following week.

Mr. Espindola asked Mr. Eggelston why the project did not stick to the contract extension date of late October. Mr. Eggelston replied that there was a hold-up on financing and that construction could not begin until financing was in place. Mr. Espindola asked Mr. Eggelston who was involved in the project. Mr. Eggelston replied that Blue Sky Power Fairhaven was the holder in the project; Revolution Energy was a partner; Dynamic Solar is the contractor. Once the project is complete, the Town will be dealing with Revolution Energy for maintenance.

Mr. Espindola indicated that he did not think enough effort was made to employ local companies in the project. He thought that some of the selectmen might have made a vote of support with the understanding that the project would source local workers.

Mr. Eggelston indicated that he believed Mr. Espindola was referencing New Bedford-based Beaumont Solar, who had written a letter to the Board of Selectmen expressing disappointment in the fact that they were not selected to be contractor on the project. At this point, Mr. Espindola said to Mr. Eggelston to tell him if he needed to go into Executive Session. Mr. Eggelston said that would not be necessary.

Mr. Eggelston explained that Beaumont Solar did so some contracted design work and that they had expressed interest in doing further work on the landfill solar project. He said because the profit margin was already tight, his investors opted to go with a lower bidder than Beaumont Solar.

Mr. Murphy asked for a projected finish date. Mr. Boyer indicated that the project was trending to be complete in mid-January, but a lot of the schedule depended on NSTAR at this point.

The Board discussed the possibility of having an “open house” for residents to come see and learn about the solar array when it is complete. Additionally, Mr. Boyer said that there would be energy production information online when the panels were complete.

SPECIAL TOWN MEETING

The Board reviewed some final recommendations for the December 4, 2012 Special Town Meeting.

Article 1, part 3, a request from the Conservation Commission (ConCom) for \$2,000.00 to pay for a recording secretary, was withdrawn by ConCom. The Board said that the request would be passed over.

Article 11, a “Job Description Bylaw Amendment” for the Finance Director position was withdrawn by the Board of Selectmen. The article had originally been included with the expectation that the DOR report would enable the Board to adjust the position to the needs of the Town, but the Article could not stand as written and the position amendment may request legislation. Mr. Murphy motioned to pass over Article 11. Mr. Espindola seconded. Vote was unanimous. (3-0).

Article 14, a request from the EMA for Emergency Shelter cots, was withdrawn by the petitioner. The Board said that the Article would be passed over.

Mr. Osuch asked the Board to look at Article 1, Part 2, a request from the BPW for \$6,000.00 for equipment costs. He said that the Board might want to consider who would be one to make the motion on the item – the BPW or the Board of Selectmen. Mr. Murphy said that he would be comfortable making the motion.

DOR REPORT

The Board shifted their attention to the DOR Financial Review, which had been received by the Selectmen’s Office the week prior.

The report was distributed to the affected departments, including the Treasurer’s office, the Harbormaster, the BPW, the Assessors, the Selectmen, the Finance Committee, Tax Collector and the School department.

Dr. Bowcock reviewed and summarized the report, saying that it was a “good report” with recommendations like combining the Treasurer/Tax Collector to one position. The number of recommendations in the report total 34.

Mr. Murphy thanked the DOR for coming out and doing the report. He said there were some good recommendations there, but not all of the 34 recommendations would likely be completed. Mr. Espindola said that the report had several recommendations that he hoped the Town would implement to make it “run more like a business”. He thought that the Town should address its current structure, budget planning procedures, job performance and accountability.

The Board discussed how they were going to use the recommendations in going forward. They discussed the potential of a charter committee being formed. Mr. Osuch said a charter committee would take at least 15 months to review Town government. Mr. Osuch recommended having two or three dedicated meetings to the DOR Financial Review. He said that two of the authors of the DOR report had offered to visit the Town to discuss the report.

Mr. Espindola said that he wanted the report to be scanned and made available to the public. Mr. Osuch said that the DOR had requested that the Town keep the report internal until the DOR itself released a PDF copy of the report. When the PDF was available, Mr. Osuch said, the Selectmen’s Office could upload the report to the website.

NEW BEDFORD/FAIRHAVEN BRIDGE – BICYCLE ACCOMMODATIONS

Presenting as the Chairman of the SouthCoast Bikeway Committee, Mr. Espindola presented a request to the Board to consider supporting his request to MassDOT to include bikeway accommodations in its future Route 6 improvements in the area of the New Bedford/Fairhaven bridge and Route 18. The accommodation request includes striping for bike safety and bike lanes. He asked the Board to send a letter of support. Dr. Bowcock called the matter a “daunting task”, but said that he would be supportive of the effort. Mr. Murphy concurred. Mr. Murphy motioned to send a letter to MassDOT in support of the project. Mr. Espindola seconded. Vote was unanimous. Mr. Espindola said that he would draft something for the Board to send from the Selectmen’s Office.

TAX CLASSIFICATION – DOR NOTIFICATION

The Board reviewed a DOR Tax Rate Recapitulation sheet for the Town of Fairhaven, FY13. The DOR accepted the rates set by Fairhaven at a recent Tax Classification hearing with the Assessors. The Board thanked everyone involved for their hard work.

TAX COLLECTOR RECERTIFIED

The Board reviewed a letter from the Massachusetts Collectors and Treasurers Association, which informed the Board of Selectmen that Carol Brandolini had been renewed as a certified Collector until 2017. The Board congratulated and thanked Ms. Brandolini.

CUSHMAN PARK EASEMENT LEGAL FEES

At 8:32 p.m., the Board met with Attorney Benjamin Dowling and former Selectmen Michael Silvia to discuss a Cushman Park easement that was granted by Town Meeting on May 5, 2012.

Atty. Dowling said that he was representing the owner of 188 Green Street, Brad Souza, who had requested the easement to clear up the issue of access to his property, which was partly on deeded park land. The house was sold several times without anyone realizing the fact that there was a sliver of Cushman Park in front of the house. Mr. Souza needed the easement in order to sell or refinance, and the easement could only be granted by Town Meeting petitioning state legislature. The easement was approved by state legislature, conditional on the Town exchanging land of same or greater size in exchange. It was decided at a previous meeting that a granted portion of land on Washburn Ave would be adequate to offset the easement. It was also decided that Mr. Souza would cover the legal costs associated with the process of granting the easement. After consulting with Town Counsel and receiving a list of costs, the Selectmen's Office sent Mr. Souza a bill for \$6,300.00.

Atty. Dowling, in representing his client Mr. Souza, said that the bill was unfair. He asked the Board to rescind their vote to bill Mr. Souza for the legal costs. He argued that the Town Meeting vote only mentioned that the Town would grant an easement to Mr. Souza, and said nothing about charging Mr. Souza for legal expenses. He said he wanted to "dispel any misunderstandings" that Mr. Souza was getting the land for free. He said that Mr. Souza purchased the whole lot thinking it was his and that the Town Meeting attempted to fix the mistake.

Mr. Silvia also urged the Board to rescind their vote to send Mr. Souza a bill. He said that he thought the understanding was that Mr. Souza would cover the cost of filing fees – estimated to be between \$300 and \$400 – but no mention was made of Mr. Souza covering legal costs.

Mr. Murphy agreed that they never discussed legal costs in the article at Town Meeting. He said that he would consider rescinding his vote.

Mr. Espindola said that the cost would have to be borne by the Town. He asked if they could bring it up at another Town Meeting.

Mr. Silvia said that he was questioning the entire amount. Atty. Dowling said that he wanted to see the bill itemized.

Mr. Espindola asked if precedent had ever been set in this matter. Mr. Osuch said it was a "unique situation". He said that he disagreed with Atty. Dowling, adding that mistakes were made, but not by the Town. He said that if they needed an itemized bill, he could get that from Town Counsel.

Atty. Dowling urged the Board to rescind the vote, saying that they were adding "fuel to the fire" otherwise. He said that if the matter was not resolved, it would go to Town Meeting again and the Town would incur further legal expenses.

Mr. Espindola said that there had been no advance warning on the cost. Mr. Murphy motioned to rescind their previous vote to send the legal bill to Mr. Souza. Mr. Espindola seconded. Vote was unanimous. (3-0).

Mr. Murphy motioned to grant the easement to Mr. Souza with Mr. Souza paying the filing and recording fees for the easement. Mr. Espindola seconded. Vote was unanimous. (3-0).

OTHER BUSINESS

In other business:

- Mr. Murphy offered condolences to the Fredette family on the passing of Alda Furdette.
- Mr. Murphy congratulated the Martin family on MacKenzie Martin getting recognition as a 2012 Junior National Champion in gymnastics.
- Mr. Murphy thanked the organizers of the Turkey Trot for Hunger for another successful event.
- Mr. Espindola said that he enjoyed attending the opening of the Rocky's Ace Hardware at the Stop and Shop plaza.
- Mr. Espindola requested that the Chairman place the topic of wind turbines and ice conditions on an upcoming Selectmen's agenda. Dr. Bowcock responded by saying that the developer did answer some of Mr. Espindola's previous questions and that perhaps his other questions could be addressed by the Fire Chief at an upcoming Economic Summit meeting.

At 8:59 p.m., Mr. Murphy motioned to enter Executive Session to discuss life insurance, health insurance, and contract negotiations. 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 12/17/2012)



MARC J. SANTOS, ESQUIRE
CLERK OF THE BOARD

The Commonwealth of Massachusetts
OFFICE OF THE
COUNTY COMMISSIONERS OF BRISTOL COUNTY
P.O. BOX 208
TAUNTON, MASSACHUSETTS 02780
TEL : (508) 824-9681
FAX: (508) 821-3101

ATTACHMENT A
COMMISSIONERS

CHAIRWOMAN
MARIA F. LOPES
TAUNTON

PAUL B. KITCHEN
FAIRHAVEN

JOHN R. MITCHELL
FALL RIVER

November 8, 2012

Town of Fairhaven
Town Clerk
40 Center Street
Fairhaven, MA 02719

Dear Sir/Madam,

Enclosed is Certificate of Votes for Register of Deeds for the Southern District, County of Bristol.

Will you please list the names exactly as follows:

J. Mark Treadup [D]	<u>6,048</u>
Name of Write-Ins [if any]	<u>42</u>
Blanks	<u>2,201</u>
Total Number of Votes:	<u>8,291</u>

We would appreciate you filling in the whole number of ballots in the spaces allotted.

Please return the completed certificate as soon as possible to the Bristol County Commissioners, P.O. Box 208, Taunton, Massachusetts, 02780 in accordance with the provisions of Chapter 54, Section 112 of the General Laws.

Very truly yours,

Maria F. Lopes, Chairwoman
BRISTOL COUNTY COMMISSIONER

MFL/jmc

Enc.



MARC J. SANTOS, ESQUIRE
CLERK OF THE BOARD

The Commonwealth of Massachusetts

OFFICE OF THE

COUNTY COMMISSIONERS OF BRISTOL COUNTY

P.O. BOX 208

TAUNTON, MASSACHUSETTS 02780

TEL : (508) 824-9681

FAX: (508) 821-3101

ATTACHMENT A
COMMISSIONERS

CHAIRWOMAN
MARIA F. LOPES
TAUNTON

PAUL B. KITCHEN
FAIRHAVEN

JOHN R. MITCHELL
FALL RIVER

November 8, 2012

Town of Fairhaven
Town Clerk
40 Center Street
Fairhaven, MA 02719

Dear Sir/Madam,

Attached is the Certificate of Votes for Treasurer for the County of Bristol.

Please list the names exactly as follows:

Christopher T. Saunders (D)	<u>5,910</u>
Name of Write-Ins (if any)	<u>41</u>
Blanks	<u>2,340</u>
Total Number of Votes	<u>8,291</u>

We would appreciate you filling in the number of ballots in the spaces allotted.

Please return the completed certificate as soon as possible to the Bristol County Commissioners' Office, P.O. Box 208, Taunton, MA 02780, in accordance with the provisions of Chapter 54, Section 112 of the General Laws.

Very truly yours,

Maria F. Lopes, Chairwoman
BRISTOL COUNTY COMMISSIONER

MFL/jmc

Enc.



ALL COMMUNICATIONS SHOULD BE ADDRESSED
TO THE CLERK/MAGISTRATE

ATTACHMENT A

Bristol County Superior Court

ASSISTANT CLERKS

PHILIP F. LEDDY, ESQ.
VALERIE A. BRODEUR, ESQ.
ERIN J. TIERNEY, ESQ.
MARK A. FERRIERA, ESQ.
JOSEPH T. VINCENT, JR., ESQ.

OFFICE OF THE CLERK/MAGISTRATE
9 COURT ST., ROOM 13.
TAUNTON, MASSACHUSETTS 02780
TAUNTON TEL. (508) 823-6588
FALL RIVER TEL. (508) 672-4464
NEW BEDFORD TEL. (508) 996-2051

MARC J. SANTOS, ESQ.
CLERK/MAGISTRATE

PETER R. ANDRADE, ESQ.
1st ASSISTANT CLERK

MARCEL W. GAUTREAU, ESQ.
ASSISTANT CLERK - CRIMINAL BUSINESS

November 8, 2012

Town of Fairhaven
Town Clerk
40 Center Street
Fairhaven, MA 02719

Dear Sir/Madam,

Attached is the Certificate of Votes for Commissioner for the County of Bristol.

Please list the names exactly as follows:

Paul B. Kitchen (D)	<u>4,756</u>
John R. Mitchell (D)	<u>2,305</u>
Paul J. Levasseur (I)	<u>2,267</u>
Name of Write-Ins (if any)	<u>12</u>
Blanks	<u>7,242</u>
Total Number of Votes	<u>16,582</u>

We would appreciate you filling in the number of ballots in the spaces allotted.

Please return the completed certificate as soon as possible to the Clerk of Courts, 9 Court Street, Room 13, Taunton, Massachusetts, in accordance with the provisions of Chapter 54, Section 112 of the General Laws.

Very truly yours,

CLERK/MAGISTRATE

Marc J. Santos, Esquire

Clerk of the Board